

**LAW 343 A01 – ADVANCED ADMINISTRATIVE LAW – SPRING 2011
COURSE OBJECTIVES, METHODOLOGY, AND EVALUATION**

PREREQUISITES	Law 301 Administrative Law (or comparable substitute)
UNIT VALUE	1.5 units
TERM OFFERED	Spring 2011
CLASSES PER WEEK	Monday and Wednesday, 10:30 a.m. to 12:00 p.m.
CLASSROOM	Room 204, Murray and Anne Fraser Building
INSTRUCTOR	Professor Cheryl Crane, Office 228 Telephone: 853-3167; Email: mccrane@uvic.ca

Course Website And Class List-Serve

Everyone enrolled in the course is 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 readings, updates, and handouts, etc. A student who has concerns about using the website, or difficulties accessing it, should contact me immediately to discuss the matter so that alternate arrangements can be made if necessary. A list-serve for the course will also be used, as needed, to provide class notices and updates.

Major Educational Goals/Course Objectives

The primary objectives of this course are (1) to provide students with an opportunity to conduct research and write papers on an administrative law topic and (2) to consider in class discussion various administrative law issues that are of current interest. The topics to be considered are for the most part not dealt with in Law 301 Administrative Law or, if they have been covered in Law 301, the seminar format of this course will enable deeper exploration. The course is arranged in a “selected issues” format and there is no attempt to establish an overarching theme that binds topics together as a seamless whole.

Subject Matters To Be Covered/Course Schedule

The course schedule (attached) lists the topics and the dates on which each will be discussed. Please note that a change in date for some topics may be necessary. Topics on the agenda are:

Administrative Law - Underlying Principles and Themes
Independence for Administrative Tribunals
Independence, Appointments and Accountability for Performance
Administrative Tribunals and the Charter: Recent Developments and the *Conway* Case
Administrative Tribunals and The Duty to Consult under s. 35 of *C.A. 1982*
What’s New in Standard of Review post-*Dunsmuir*? Does *Dunsmuir* make a Difference?
Administrative Tribunals and the *Administrative Tribunals Act* – Standard of Review and Other Issues
Administrative Discretion
The Role of the Provincial Ombudsman
Judicial Review in the Federal Court
Administrative Law Remedies – Monetary Remedies for Administrative Wrongdoing
Commissions of Inquiry
Administrative Law and Alternate Dispute Resolution

Required Course Materials

There is no required text or package of course materials that must be purchased for this course. Most of the materials that we will be using are (1) articles or other materials that can be located on the web and (2) case extracts or “introductory notes” that I have prepared to provide background or contextual information for the course. Links to these materials will be posted on the course website. Please notify me as if any of the links do not work and I will endeavour to ensure that you can access the materials.

Some readings may also be placed on reserve in the Law Library.

Methodology

The course will be conducted as an advanced seminar where we will learn from and teach each other. While I may often provide some introductory comments or provide additional context for the readings, I expect that the bulk of our time will be spent in discussion as we mutually explore the various issues in the course.

The success of the course therefore depends on your willingness to critically engage with the materials and ideas in the course and to participate in classroom discussions. I expect that you will attend class having read and thought about the materials; some of the evaluation components are designed to promote such engagement.

Evaluation

There is no examination in this class. Your final grade will be based on the following, each of which is explained in more detail below:

- 1) 20-25 Page Research Paper worth 75 marks
- 2) Class Presentation of Work-in-Progress worth 5 marks
- 3) Five “Class Discussion Submissions” worth 15 marks
- 4) Class Participation worth 5 marks

(1) Research Paper: 75 marks

The research paper should critically examine a topic in administrative law that is approved in advance by me. It may be a topic that is raised in the course materials or one that is not specifically addressed. The research paper must include a bibliography of all sources that were used in its preparation. It will be evaluated on its substance and analysis, quality of writing and research, and accuracy and appropriateness of citation. It must be **entirely your own independent** work. It should also represent new work in the sense that it must not be a paper you have prepared for some other class or in some other capacity. More information about the criteria I will use to evaluate the paper will be provided later.

A brief note describing your topic and a 2-3 page rough outline (along with a preliminary bibliography) of the paper must be submitted by the dates specified below. I will provide feedback on these documents but I will not review or comment on drafts of the paper itself. You are strongly encouraged to meet with me to talk about the progress of your paper as the term proceeds.

Length: The research paper should be between 20 - 25 pages (including footnotes or endnotes, but excluding the bibliography and any other appendices) and it **must not exceed 25 pages**. “Page” means letter-size paper (8 1/2" x 11"), double-spaced, with 1" margins and 12 point Times New Roman font typing. Please honour this page limit. I will stop reading at 25 pages and a **paper that exceeds the page limit (subject to a “de minimis” discretion that I will exercise) will be docked one grade level (for example, A down to A-, B+ down to B) for each partial page over the limit.**

Relevant Deadlines for Research Paper Tasks:

Topic: Your topic (title and brief note describing the topic) must be deposited in the online Moodle drop box not later than 4:30 p.m. on **Friday February 4, 2011**. **You are encouraged to determine your topic earlier than this. Remember, too, that you must discuss your topic with me and secure my prior approval for it.**

Outline: The rough outline of the paper (with preliminary bibliography) must be deposited in the online Moodle drop box not later than 4:30 p.m. on **Friday, March 4, 2011**.

Paper: The final version of the paper must be deposited in the online Moodle drop box by not later than 12:00 midnight, **Tuesday, April 5, 2011** (the last day of classes for the term).

Extensions:

Extensions to the above deadlines may be granted on grounds such as illness, disability, family or personal emergencies, religious observance, and other exigent circumstances. Please note that I am able to grant extensions to the final deadline for the research paper only up to midnight, Thursday, April 21, 2011. Any extension beyond that date would require the permission of the Associate Dean Academic and Student Relations (Professor Heather Raven) and must fall within the Faculty's policies in that regard.

If you are having or anticipate difficulties meeting any of the relevant due dates associated with the paper, please discuss the problem with me, or with the Associate Dean, **before** the due date.

In the absence of an extension, failure to submit either the topic or the outline on the designated dates will lead to loss of the participation marks for the course. Failure to submit the final version of the paper by the deadline will result in the final grade for the paper being reduced one grade level (A down to A-, B+ down to B) for each partial day that the paper is late. For example, a paper that is ½ day late and is graded as a B+ will receive a letter grade of B. If the same paper were 1.25 days late, it would receive a letter grade of B-

Major Paper Option:

If you wish to write a longer paper that will fulfill the Faculty's major paper requirement, the paper must be at least 7500 words of text (exclusive of footnotes or endnotes, appendices and bibliography), and receive a grade of at least C+. You must receive permission in advance from me to do this, and you must register the paper with the Associate Dean's office on the requisite form. Please advise me as soon as possible if you intend to write a "major paper".

(2) Class Presentation of Work-in-Progress: 5 marks

Classes on March 23, 28, and 30 will be devoted to class presentations by students of their research work-in-progress. Each presentation will be approximately 20 minutes, including 7-10 minutes allotted for class discussion. A current outline of your paper should be distributed to the class by **not later than 24 hours prior** to the time of your presentation. Your presentation should include an overview of your topic, the questions you are investigating, your argument/analysis and any problems or issues you are struggling with as you near completion of the work on your paper. The schedule for presentations will be finalized after March 4, so that similar topics can be scheduled together to the extent possible.

(3) Class Discussion Submissions -- Questions / Comments for 5 Classes: 15 marks (3 marks each)

You must submit a "Class Discussion Submission" for 5 different classes during the term as follows:

- 2 submissions must be made in January
- 2 submissions must be made in February and
- 1 submission must be made in March

Two of the "class discussion submissions" must be in the form of "discussion questions" and 3 must be in the form of "reaction comments". The intent of these submissions is to help foster discussion and reflection about the class topic and readings. Each is worth 3% of your final grade.

"Discussion Questions" means 2 or 3 questions about the class topic that arise from the assigned readings for the class accompanied by a few sentences explaining why you have raised the question (i.e. why you think it is significant or important). You may also include your thoughts about possible answers to the questions.

"Reaction comments" should comment on some aspect of the assigned materials that you find interesting, provocative, or problematic. Comments must be approximately 250 words (about 1 page) in length and should not be more than about 300 words. They should deal with theoretical or policy issues, or raise questions or concerns about the relevant law.

Subject to the above requirements about the monthly pattern for your submissions, it is up to you as to which classes you choose as the focus of your submissions. Your questions/comments must be submitted directly to me at mccrane@uvic.ca no later than 8:00 p.m. on Sunday for a Monday class, and 8:00 p.m. on Tuesday for a Wednesday class. I will endeavour to incorporate them into class discussion, and may call on you in class to address them, or to summarize the reading(s) you commented on or questioned. Finally, although this is not a requirement, I would also strongly encourage you to post your submissions on the website or otherwise circulate them to the class to promote discussion and exchange of ideas.

I will review all of the questions/comments at the end of the term in order to assign a grade for this part of the course. They will be assessed on the basis of their thoughtfulness, clarity, depth of engagement with the materials, creativity, and general usefulness in stimulating discussion. Although good writing is always encouraged, I will not assess these documents for grammatical correctness.

(4) Class Participation: 5 marks

To promote your participation and engagement 5 marks will be granted if you:

- (a) submit the paper topic (title and brief note describing the topic) by February 4, 2011
- (b) submit the rough outline and preliminary bibliography of the research paper by March 4, 2011
- (c) attend class*; and
- (d) participate in classroom discussions and activities.

If any of these requirements is **not** met, you will not get **any** of the 5 marks. In other words, you will either get full class participation marks, or no marks at all.

* **Attendance:** Students are expected to attend all classes. If you cannot attend a class, please advise me in advance. A student with more than two unexplained absences will lose the 5 mark participation grade.

GRADING

The Faculty's grading system will be used to translate numerical grades to letter grades. The chart below describes the grading system and 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.

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.

ILLNESS, DISABILITY, FAMILY CIRCUMSTANCES, 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 or to complete assignments or examinations at regularly scheduled dates, or in other circumstances. Accommodation to enable religious observance is also provided in accordance with University policy. 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/calendar2010/FACS/UnIn/UARe/PoAcI.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/calendar2010/FACS/index.html>. The academic regulations of the Faculty of Law are included in the University Calendar at <http://web.uvic.ca/calendar2010/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>.

COURSE SCHEDULE: LAW 343 A01 – ADVANCED ADMINISTRATIVE LAW – SPRING 2011 (Professor Cheryl Crane)

Week	Classes	Topic	Readings [will be posted on course website]
Week 1	Wednesday Jan. 5	Introduction to the Course – Getting Acquainted	No readings assigned.
Week 2	Monday Jan. 10	Administrative Law - Underlying Principles and Themes I	Readings for Week 2 Class1 “Underlying Themes 1: The Rule of Law and Its Implications”
	Wednesday Jan. 12	Administrative Law - Underlying Principles and Themes II	Readings for Week 2 Class 2 “Underlying Themes 2: Perspectives on Administrative Law and Its Goals”
Week 3	Monday Jan. 17	Independence for Administrative Tribunals I	Readings for Week 3 Class 1 “Independence 1: Overview of the Law, Legal Issues and Problems”
	Wednesday Jan.19	Independence for Administrative Tribunals II	Readings for Week 3 Class 2 “Independence 2: The Puzzle of Independence”
Week 4	Monday Jan. 24	Independence, Appointments and Accountability for Performance	Readings for Week 4 Class 1 “Independence, Appointments and Accountability”
	Wednesday Jan. 26	Administrative Tribunals and the Charter: Recent Developments - The <i>Conway</i> Case	Readings for Week 4 Class 2 “Administrative Tribunals and The Ability to Provide Remedies for <i>Charter</i> Breaches”
Week 5	Monday Jan. 31	Administrative Tribunals and The Duty to Consult under s. 35 of <i>C.A. 1982</i> Guest Speaker TBC	Readings for Week 5 Class 1 “Administrative Tribunals and the Duty to Consult Aboriginal Peoples”
	Wednesday Feb. 2	What’s New in Standard of Review post- <i>Dunsmuir</i> ? Does <i>Dunsmuir</i> make a Difference?	Readings for Week 5 Class 2 “ <i>Dunsmuir</i> and Post- <i>Dunsmuir</i> Developments regarding Standard of Review”
Week 6	Monday Feb. 7	Administrative Tribunals and the <i>ATA</i> – SOR and Other Issues, Guest Speaker Karrie Wolfe, B.C. Attorney General’s Office	Readings for Week 6 Class 1 “ <i>The Administrative Tribunals Act in B.C.</i> : Standard of Review and Other Issues”
	Wednesday Feb. 9	Administrative Discretion I	Readings for Week 6 Class 2 “Administrative Discretion 1: Law and Theory 1”
Week 7	Monday Feb.14	Administrative Discretion II	Readings for Week 7 Class 1 “Administrative Discretion 2: Law and Theory 2”
	Wednesday Feb.16	The Role of the Provincial Ombudsman [NOTE: This topic may be subject to change.]	Readings of Week 7 Class 2 “The Role of the Provincial Ombudsman in Enhancing Government Accountability and Performance”

FEBRUARY 21 TO FEBRUARY 25 READING WEEK – NO CLASSES

COURSE SCHEDULE CONTINUED: LAW 343 A01 – ADVANCED ADMINISTRATIVE LAW – SPRING 2011 (Professor Cheryl Crane)

Week	Classes	Topic	Readings
Week 8	Monday Feb. 28	Judicial Review in the Federal Court – Guest Speaker, Justice Michael L. Phelan, Justice of the Federal Court of Canada	Readings for Week 8 Class 1 TBA
	Wednesday Mar. 2	Administrative Law Remedies – Monetary Remedies For Administrative Wrongdoing [Note: this topic may be subject to change]	Readings for Week 8 Class 2 “Suing the Crown for Administrative Misfeasance”
Week 9	Monday Mar. 7	Commissions of Inquiry I	Readings for Week 9 Class 1 “Commissions of Inquiry 1: Law, Issues, and Problems”
	Wed. March 9	Community Conference – no classes	
Week 10	Monday Mar. 14	Commissions of Inquiry II	Readings for Week 10 Class 1 “Commissions of Inquiry 2: Case Example”
	Wednesday Mar.16	Administrative Law and Alternate Dispute Resolution – Guest Speakers TBA	Readings for Week 10 Class 2 “The Use of Alternate Dispute Resolution in Administrative Decision-Making: Recent Developments, Problems and Perspectives”
Week 11	Monday Mar. 21	Class-Selected Topic TBD by the Class	
	Wednesday Mar. 23	Student Papers 3/4 per class	
Week 12	Monday Mar. 28	Student Papers 3/4 per class	
	Wednesday Mar. 30	Student Papers 3/4 per class	
Week 13	Monday April 4	Last Class – Wrap up	