

**FACULTY OF LAW UNIVERSITY OF BRITISH COLUMBIA**  
**LAW 505 - CANADIAN PUBLIC LAW**

Summer 2017 Tuesdays & Thursdays 2 pm – 5 pm  
Allard Hall, Room 123

Instructor: Robert Danay [rdanay@mail.ubc.ca](mailto:rdanay@mail.ubc.ca)

**About the Course:**

Welcome to Law 505, Canadian Public Law. This is a graduate level course for students enrolled in the course based Masters of Law (Common Law) program at UBC. In broad terms, this course surveys the foundations of the Canadian legal system as well as the basic principles of Canadian constitutional law.

This course will cover four main topics:

1. Fundamental principles of Canadian public law including the rule of law, sources of Canadian law, principles of statutory interpretation and the structure of courts in Canada;
2. The nature and sources of the Canadian constitution and the distribution of powers in Canada as between the federal and provincial governments;
3. The *Canadian Charter of Rights and Freedoms*;
4. The relationship of Aboriginal Peoples to the Canadian State.

Each section will encourage students to think critically about the Canadian legal system. By the end of the course, students will:

- understand key legal doctrines and the basic principles that inform them;
- understand the sources of Canadian law and the historical context in which it was established;
- be able to apply legal analysis to specific constitutional problems and issues; and
- develop their own understanding of how Canadian public law regulates the Canadian social and political orders and how it contributes to the construction of the Canadian national identity.

Class will meet **Tuesdays and Thursdays, between 2 pm – 5 pm** in Allard Hall, Room 123. The final exam will take place on **July 27**. In addition, on **May 30**, we will visit the British Columbia Courthouse, where we will tour the courthouse, watch court hearings, and meet with a judge of the British Columbia Supreme Court.

The course will be taught through a combination of presentations by the instructor, class discussions and small group exercises. Students are expected to attend class regularly, to have completed the assigned readings for each class and to participate in class discussions, which will be interactive. In discussion, the emphasis will be on developing a critical understanding of the material, and as such students are strongly encouraged to reflect on the material and form their own views on the law and

related policy issues before the class. The course will also provide students with opportunities to engage in problem-solving exercises in class, and to develop their legal writing skills.

**About the Instructor:**

I am a practising lawyer with the federal Department of Justice in Vancouver. I have worked on wide variety of public law cases, including several *Charter* challenges and have appeared before various courts and tribunals in Canada. I earned a B.Sc. from the University of Toronto, an LL.B. from the Osgoode Hall Law School and a B.C.L from the University of Oxford. I also clerked for the Deputy Chief Justice of the Constitutional Court of South Africa. As an important disclaimer, all of the views expressed during this course are my own and do not necessarily represent the views of the Department of Justice or the Government of Canada.

The best way to communicate with me is through email at: [rdanay@mail.ubc.ca](mailto:rdanay@mail.ubc.ca). I do not intend to hold regular office hours, but will be available to meet with students on an as needed basis. I will try to ensure that I can be available outside of class at convenient times to answer questions or discuss the material.

**Grades / Evaluation:**

Students will be evaluated using the following three assessments:

1. Quizzes, which will be administered during most classes – worth 20% of the final grade;
2. Take home memorandum assignment – worth 30% of the final grade;
3. Final examination (open book) – worth 50% of the final grade.

The quizzes will typically involve four multiple choice or true/false answers that will cover the materials taught in that day's class.

The take home memorandum assignment will simulate a typical research assignment that might be given to an articling student or junior lawyer. It will involve a fact scenario and a series of questions that will test your knowledge of the concepts and materials covered in Parts I and II of the course and your ability to apply them to a particular situation. The assignment will be distributed in class on June 13, 2017 and will be **due on June 20, 2017** at noon (please email the assignments to [rdanay@mail.ubc.ca](mailto:rdanay@mail.ubc.ca)).

The final examination (worth 50% of the final grade) will be a qualified open book examination. Students may bring in their notes and the texts from the class, but not other materials. It will be held on **Thursday, July 27, 2017 at 9:00AM** in Allard rooms 123 (ExamSoft SoftTest users) & 114 (hand-writers).

The exam will consist of short answer questions, short essay questions, and/or problem questions. In this regard:

- Short answer questions test students' ability to succinctly and correctly summarize the material listed in the syllabus.

- Problem questions test students' ability to identify legal issues, accurately state the applicable legal rules, apply those rules to novel situations, and draw conclusions supported by analysis. In other words, problem questions require the exercise of independent judgment grounded in the application of general rules to specific fact situations.
- Essay questions test whether students have critically engaged with the course material and have started to form their own opinions about the strengths and weaknesses of the arguments, principles, and doctrines discussed in those materials.

The course will be graded according to the Faculty of Law and Faculty of Graduate Studies grading rules. For LLM CL students, the passing grade in any single course is 68%, with an overall average of 70% required to receive the degree.

Faculty rules require that requests for deferment of or accommodation for any assignment or examination be made to the Examinations Committee, not to the individual instructor. If you require assistance with this process, please contact the Graduate Program Advisor, Joanne Chung: [jchung@law.ubc.ca](mailto:jchung@law.ubc.ca)

All work submitted for this course must be original and may not be or have been submitted in any other course without prior approval by the instructor. Academically recognized practices of citation and attribution must be followed. Never quote or use an idea from another author without citing that person's work. Students should familiarize themselves with the UBC Calendar rules and penalties for plagiarism and other academic offences. <http://vpacademic.ubc.ca/integrity/ubc-regulation-on-plagiarism/>

### Course Materials

There are two textbooks required for this course:

1. The Constitutional Law Group (eds.), *Canadian Constitutional Law* (4th ed.), (Toronto: Emond Montgomery, 2010). There is also an online supplement from this text, which can be accessed here: [http://www.emond.ca/downloads/ccl4\\_supplement\\_2016\\_vol1.docx](http://www.emond.ca/downloads/ccl4_supplement_2016_vol1.docx) (Vol. 1) and [http://www.emond.ca/downloads/ccl4\\_supplement\\_2016\\_vol2.docx](http://www.emond.ca/downloads/ccl4_supplement_2016_vol2.docx) (Vol. 2). This text is referred to in the reading list as "Constitutional Law."
2. Neil Craik et al eds., *Public Law: Cases, Materials and Commentary* (3<sup>rd</sup> ed.) (Toronto: Emond Montgomery, 2015). This text is referred to in the reading list as "Public Law".

A recommended textbook that students may wish to also purchase or borrow is:

1. Peter Hogg, *Constitutional Law of Canada* (2015 Student Edition). This text provides an excellent analysis of Canadian constitutional law by one of the country's leading constitutional law scholars.

In addition, students should obtain:

- The full text of the Constitution Acts of 1867 and 1982 which can be found on the Department of Justice website at [http://laws-lois.justice.gc.ca/eng/Const//Const\\_index.html](http://laws-lois.justice.gc.ca/eng/Const//Const_index.html)
- Cases as set out on the syllabus which are available free of charge on court websites as set out below or on CanLII: <http://www.canlii.org/>
- I may add or delete from the required reading materials from time to time.

All required texts are available for purchase at the UBC Bookstore. Additional copies have been placed on 2 hr. reserve at the UBC Law Library.

Some additional supplementary materials may be placed on reserve at the UBC Law library under this course (Law 505). Students are not responsible for this material for the final exam except to the extent they are specifically discussed during lectures.

**A Class Schedule and Reading List will be circulated on the first day of class.**

