

PUBP 898: Legal Issues in Public Administration

University of Saskatchewan Campus	
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Office Hours:	Tuesdays and Thursdays 1:00 - 2:00 p.m. or by appointment
Office Location:	Law 244
Term:	Term 3 (spring/summer)
Room:	TBD
Time:	Refer to each session.

CALENDAR DESCRIPTION

The purpose of this course is to expose graduate students enrolled in the Masters in Public Administration program to the significant legal issues that have practical significance in the management and operations of public sector departments, agencies and initiatives. The course will focus on select aspects of public sector governance, human resources and employment. Students will be expected to apply the knowledge they learn from the course materials and lectures to problems and assignments that could typically arise in a public administration setting.

COURSE CONTENT AND APPROACH

The course will be delivered through a series of lectures and class discussion. It is anticipated that the lectures will be delivered by both the course instructor and guest speakers that are members of the public sector or other professionals providing professional services to various public sector stakeholders.

REQUIRED READINGS

Refer to the readings for each session.

SUPPLEMENTARY READINGS

Refer to the readings for each session.

EVALUATION

Students will be evaluated on the basis of three (3) written assignments (the first one worth 20% and the remaining two each worth 25% of the final grade) and a final examination worth 30% of the final grade.

LATE ASSIGNMENTS

Assignments that are handed in past the due date (without prior authorization from the instructor) will be assessed an academic penalty of 5% per day.

STUDENTS WITH SPECIAL NEEDS

Students are asked to contact your course instructor or the Executive Director of the JSGS to identify any special needs that may require accommodation during this course.

ACADEMIC INTEGRITY AND CONDUCT

Ensuring that you understand and follow the principles of academic integrity and conduct as laid out in the University of Regina's Graduate Calendar and the University of Saskatchewan's Guidelines for Academic Conduct is vital to your success in graduate school. Ensuring that your work is your own and reflects both your own ideas and those of others incorporated in your work is important: ensuring that you acknowledge the ideas, words, and phrases of others that you use is a vital part of the scholarly endeavour. If you have any questions at all about academic integrity in general or about specific issues, contact your course instructor and to discuss your questions.

Introduction to PUBP 898: Legal Issues in Public Administration

Session 1 – April 28, 9:00 a.m. to 12:00 p.m.: Public Sector Employment

- a. Introduction to Legal Issues in Public Administration**
- b. Overview of the Organization of the Public Sector**
- c. The Role of the Public Service Commission: Tensions between the Merit and Staffing mandates**
- d. Priorities and Performance of the Saskatchewan Public Service Commission**

REQUIRED READINGS

Luc Juillet and Ken Rasmussen, *Defending a Contested Ideal: Merit and the PSC of Canada, 1908 -2008* (selected chapters only)

The Saskatchewan Public Service Commission Annual Report 2008-2009

The Saskatchewan Public Service Commission Ministry Plan 2009-2010

SUPPLEMENTARY READINGS

Statutes:

The Public Service Act, 1998, S.S. c. P-42.1

Session 2 – Monday, May 3, 9:00 a.m. - 12:00 p.m.: The Employment Contract: Out of Scope and Private Contractors

- a. The Private Employment Contract
- b. Out of Scope Employees and Private Contractors
- c. Wrongful Dismissal
- d. Federal Jurisdiction Employers (Canada Labour Code)

REQUIRED READINGS

Howard A. Levitt, *The Law of Dismissal in Canada* (2nd)(Chapter 1: Applicability of the Law: Status of Employee, Crown Employees, Public Authorities, Statutory Office Holders; Chapter 2 Federal Jurisdiction Employers)

Eileen Libby, *Wrongful Dismissal* (2007)

Ellen E. Mole and Mario J. Stendon, *The Wrongful Dismissal Handbook* (3rd Ed.) (Chapter A-4 Dismissal Rights of Specific Types of Workers)

SUPPLEMENTARY READINGS

Statutes:

Canada Labour Code R.S. 1985, C.L-2. Part III, Division XIV

Session 3 – Monday, May 3, 2:30 - 5:30 p.m.: The Employment Contract: Unionized Workplace

- a. Overview of the Unionized Workplace
- b. Collective Bargaining and the Collective Agreement
- c. Dispute Settlement and Role of the Labour Relations Boards
- d. Essential Services Legislation and the Right to Strike

REQUIRED READINGS

Wesley B. Raynor, *Canadian Collective Bargaining Law* (2nd) (selected readings from: Chapter 2 “Basic Premises of Modern Labour Legislation”, Chapter 8 “Employees: Public sector and excluded Employees”, Chapter 9 “Employers” and Chapter 17 “The Collective Agreement”).

Pravel Peykov, *Labour Issues in the Provision of Essential Services* (SIPP)

SUPPLEMENTARY READINGS

Statutes:

Canada Labour Code R.S.C. 1985, C. L-2, Part I

The Trade Union Act, R.S.S. 1978, C.T-17.

The Public Service Essential Services Act, S.S. 2008, c.P-42.2

Session 4 – Wednesday, May 5, 9:00 a.m. - 12:00 p.m.: Human Rights in the Workplace

- a. The Prevention of Discrimination in the Workplace and the Role of Human Rights Codes (Federal and Provincial)
- b. Prohibited Discrimination and Duties to Accommodate
- c. Employment Equity
- d. Role of Human Rights Commissions in Dispute Resolution

REQUIRED READINGS

Milton Woodard, *An Introduction to the Duty to Accommodate* (2002)
Meghan McCreary, *Harassment: Considerations for Lawyers* (2007)
CRC Employment Equity Fact Sheet
CRC Employment Equity Compliance Program

SUPPLEMENTARY READINGS

Denise Reaume, *Of Pigeonholes and Principles: A Reconsideration of Discrimination Law Statutes:*
Canadian Human Rights Act R.S.C., 1985, c.H-6
Employment Equity Act, S.C. 1995, c.44
Occupational Health and Safety Act, 1993, S.S. 1993, c. 0-1.1, Part II
The Saskatchewan Human Rights Code, S.S. 1979, c. S-24.1

Session 5 – Wednesday, May 5, 2:30 - 5:30 p.m.: The Regulatory Environment for Workers in Saskatchewan: Labour Standards and Occupational Health and Safety

- a. Overview of Labour Standards Law (Hours of Work, Wages, Maternity and Parental Leaves and Holidays)
- c. Enforcement of Rights
- c. Overview of Occupational Health and Safety legislative framework (Committees, Complaints and Investigations)

REQUIRED READINGS

Peter Bergbusch, *Labour Standards in Saskatchewan* (2008)
Genevieve Leslie, *The Statutory Right to Refuse Unsafe Work* (1981-82)

SUPPLEMENTARY READINGS

Statutes:

Canada Labour Code, R.S. 1985, c. L-2, Parts II and III

The Labour Standards Act, R.S.S. 1978, c. L-1

The Occupational Health and Safety Act, 1993, S.S. 1993, c. O1-1 Part III and IV

Session 6 – Friday, May 7, 9:00 a.m. - 12:00 p.m.: Assess to Information and Privacy Rights

- a. Overview of Privacy Laws in Saskatchewan
- b. Assess to Information and Freedom of Information Requests

REQUIRED READINGS

Barbara MacIssac, Privacy Laws in Canada (2000)

Gary Dickson, Navigating the Privacy Jungle (2004)

Evert Van Olst, Privacy in the Health Sector (2004)

SUPPLEMENTARY READINGS

Statutes:

The Freedom of Information and Protection of Privacy Act, S.S. 1990-91, c. F-22.01

The Local Authority and Freedom of Information and Protection of Privacy Act, S.S. 1990-91, c. L-27.1

The Health Information and Protection Act, S.S. 1999, c. H-0.021

The Privacy Act, R.S.S., 1978, C. P-24

Session 7 – Friday, May 7, 2:30 - 5:30 p.m.: Integrity, Transparency and Accountability in the Public Sector

- a. Accountability and Transparency
- b. Whistleblower Protection for Public Sector Employees
- c. Codes of Conduct and Ethics in the Workplace

REQUIRED READINGS

Kernaghan Webbm, Thumbs, Fingers, and Pushing on String: Legal Accountability in the Use of Federal Financial Incentives (1993)

Transparency: The Key to Better Governance, edited by Christopher Hood and David Heald (selected Chapters)

Governing Complex Societies: Trajectories and Scenarios / Jon Pierre and B. Guy Peters (selected Chapters)

Tara Gray, The Public Servants Disclosure Protection Act and Proposed Amendments (2006)

SUPPLEMENTARY READINGS

Jennille Fairbanks, Kenneth D. Plowman and Brad L. Rawlins, Transparency in government communication (2007)

Statutes:

Federal Accountability Act, S.C. 2006, c.9

Public Servants Disclosure Protection Act, S.C. 2005, c. 46

Session 8 – Monday, May 10, 9:00 a.m. - 12:00 p.m.: Government Liability

- a. Crown Immunity and Crown Liability
- b. Policy versus Operational decision-making
- b. Liability for Misfeasance in Public Office

REQUIRED READINGS

Allen Linden, Canadian Tort Law (8th Ed.) (2006): Chapter 17: Government Liability

David Mullan, Administrative Law (5th Ed.) (2003): Chapter 20 : Immunities From Suit

G.L.D. Fridman, Introduction to the Canadian Law of Torts (2003): Chapter 18: Misfeasance in Public Office

Irvine, Misfeasance in Public Office: Reflections on Some Recent Developments (2002)

SUPPLEMENTARY READINGS

Statutes:

Crown Liability and Proceedings Act, R.S.C. 1985, c. C-50

The Proceedings Against the Crown Act, R.S.S. 1978, c. P-27

Session 9 – Monday, May 10, 2:30 - 5:30 p.m. : Crown Corporations and Government Agents

- a. Forms of Government ownership and control
- b. The governance relationship between the Crown and government agencies and crown corporations
- c. Saskatchewan Crown corporation governance: Crown Investment Corporation and the holding corporation structure

REQUIRED READINGS

Economic Council of Canada: Crown Corporations as Instruments of Public Policy : A Legal and Institutional Perspective (1985)

Crown Corporations in Canada : The Calculus of Instrument Choice / edited by J. Robert S. Prichard (1983) Selected Readings

Mapping a New Course : Reviewing Our Crown Corporations (2006)

SUPPLEMENTARY READINGS

Pat Rediger, The Crowns: A History of Public Enterprise in Saskatchewan

Public Enterprise in an Era of Change, Ed. John Allan (1998)

Statutes:

The Crown Corporations Act, 1993

The Crown Corporations and Public Ownership Act, 2004

Session 10 – Wednesday, May 12, 9:00 a.m. - 12:00 p.m.: Public Sector Board Governance

- a. Agency Models of Governance in the Private Sector
- b. Best Practices in Board Governance
- c. Strategic Planning, CEO Oversight and Risk Management

REQUIRED READINGS

David Nadler et al, Building Better Boards (2006) Select Chapters
TBA

Session 11 – Wednesday, May 12, 2:30 - 5:30 p.m.: Procurement and Public Management

- a. Principles Underlying Government Procurement Policies
- b. Organization and Control of Procurement
- c. Procurement Processes and Dispute Settlement
- d. Crown Liability for Breach of Contract

REQUIRED READINGS

William Hearn, Selling to Ottawa: Some Legal Aspects of Federal Government Procurement in Canada (1999)
Phillipe De Goff, Procurement, Contracting and Advertising Management in the Federal Government (2006)
Government Services Ministry Plan 2009-2010

Session 12 – Friday, May 14, 9:00 a.m. - 12:00 p.m.: The Government

- a. The Role and Function of Federal and Provincial Auditors
- b. The relationship between the Provincial Auditor and Government Departments and Agencies
- c. The relationship between the Provincial Auditor and Private Firms

REQUIRED READINGS

Report on the Task Force on Roles, Responsibilities and Duties of Auditors (1994)
CCOLA, Legislative Audit: Serving the Public Interest (2000)
A Guide To Policy Development, Manitoba Provincial Auditor (2006)

SUPPLEMENTARY READINGS

Statutes:

The Provincial Auditor Act, S.S. 1983, c. P-30.01

Session 13 – Friday, May 14, 2:30 - 5:30 p.m.: Public Private Initiatives

- a. Introduction to Public Private Partnerships
- b. The Relationship between Government and First Nation Gaming

REQUIRED READINGS

Joan Price Boase, Beyond government? The appeal of public-private partnerships (2000)
Timothy Murphy, The case for public-private partnerships in infrastructure (2008)
Nolan Bederman & Michael Trebilock Unsolicited Bids for Government Functions (1997)
Gary Anders, Indian gaming: Financial and regulatory issues (1998)

SUPPLEMENTARY READINGS

Pamela Bloomfield, The Challenging Business of Long-Term Public-Private Partnerships: Reflections on Local Experience (2006)

Statutes:

The Saskatchewan Gaming Corporation Act, S.S. 1994. c.S-18.2

Details Information on Assignments and Evaluation

In this course, students undertake three written assignments: the first one worth 20% and the remaining two each worth 25% of their final grade. The assignments are:

- Drafting an opinion memorandum addressing a human resources and/or employment issue;
- Drafting and responding to a freedom of information request as well as providing a written reflection on the privacy and transparency issues that arise; and
- Drafting a Policy or Code for a public sector department, agency or initiative on a subject-matter related to governance, ethics or employment.

Students will also be required to write a take-home final examination for 30% of their final grade.