

Law, Politics, and the *Charter of Rights and Freedoms*
POL3332F
The University of Western Ontario
Fall 2020

Professor: Caroline Dick
Time: Monday 1:30-3:30 p.m.
Office Hours: Thursdays 12:00-1:00 pm

Email: cdick4@uwo.ca

Prerequisite(s): Political Science 2230E or Sociology 2260A/B

Antirequisite(s): The former Political Science 403F/G

IMPORTANT NOTICE RE PREREQUISITES/ANTIREQUISITES

You are responsible for ensuring that you have successfully completed all course prerequisites, and that you have **not** taken an antirequisite course. Lack of prerequisites may not be used as a basis for appeal. If you are found to be **ineligible** for a course, you may be removed from it at any time and you will receive no adjustment to your fees. **This decision cannot be appealed.** If you find that you do not have the course requisites, it is in your best interest to drop the course well before the end of the add/drop period. Your prompt attention to this matter will not only help protect your academic record, but will ensure that spaces become available for students who require the course in question for graduation.

Course Description

The *Canadian Charter of Rights and Freedoms* has been described as the single most important innovation of the constitutional changes of 1982 and the most radical break ever made with the Canadian constitutional and legal order, which previously had been characterized by continuity and incremental development. The *Charter* assigns the judiciary the authority and responsibility to review legislative and executive decisions to determine whether they are consistent with the protected rights and freedoms enshrined in the *Charter*. However, judicial interpretations of the *Charter*, the respective roles of Parliament and the judiciary in the political process, and Charter litigation commenced by competing social interests are subjects that evoke considerable controversy. This course will examine these controversies.

Learning Objectives

By the end of the course, students should acquire an in-depth understanding of the operation of the *Charter* and its impact on and relationship to the political realm. Students should also be able to apply that knowledge to public policy issues by producing their own Charter analyses to resolve rights-based, public policy controversies and by critically evaluating Charter jurisprudence.

Required Readings

The vast majority of the readings are available electronically through the library catalogue. Abbreviated versions of the Supreme Court of Canada cases that have been designated as required readings are available in the course web site. The rest of the readings are available in a course package that is available at the UWO bookstore. Readings included in the course package are marked with an asterisk (*). Students are not required to do the recommended readings. However, the instructor may refer to materials from those readings in the lecture.

Other Sources

Canadian Charter of Rights and Freedoms, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11. <http://laws-lois.justice.gc.ca/eng/Const/page-15.html>

Full text legal decisions of the Supreme Court of Canada are available electronically at: <https://scc-csc.lexum.com/scc-csc/en/nav.do>

Using Uniform Legal Citation (McGill Guide):
https://library.carleton.ca/sites/default/files/help/writing-citing/Using_uniform_legal_citation_2018.pdf

Format

This is a lecture-based course.

Email

The Professor will respond to email and will do her best to reply within 48 hours (excluding weekends). Do note that university policy precludes Professors from responding to email messages that were not sent from a UWO email account.

Web Site

There is a web site set up for this course, available at: <https://owl.uwo.ca>. The course syllabus and abbreviated case law materials will be posted on the web site as will important announcements and links to turnitin.com. Accordingly, students should check the web site regularly.

IMPORTANT POLICIES

Academic Offences

Scholastic offences are taken seriously and students are directed to read the appropriate policy, specifically, the definition of what constitutes a Scholastic Offence, at the following web site: https://www.uwo.ca/univsec/pdf/academic_policies/appeals/scholastic_discipline_undergrad.pdf

Turnitin

All assignments are subject to submission for textual similarity review to the commercial plagiarism detection software under license to the University for the detection of plagiarism. All papers submitted for such checking will be included as source documents in the reference

database for the purpose of detecting plagiarism of papers subsequently submitted to the system. Use of the service is subject to the licensing agreement, currently between The University of Western Ontario and Turnitin.com (<http://www.turnitin.com>).

Assignment Submission

Written assignments must be submitted to Turnitin.com via OWL prior to the start of class at **11:30 am**. Assignments coming in after this time will be considered late.

Late penalty for Moot Court Summary and Moot Court Written Submission

Written assignments may be handed in 1 week following the original due date with a 10% deduction. **Assignments that are more than 1 week late will not be accepted for grading.**

Extensions

Extensions are not given. However, when there are genuine and unavoidable family or medical circumstances, students may seek academic accommodation, as detailed below, where self-reporting is not an option. If you fail to hand in an assignment but are pursuing academic accommodation, please advise your Professor of this fact.

Computer Problems

Students are expected to back up their written work and lecture/tutorial notes. Furthermore, students will be responsible for finding replacement lecture/tutorial notes where they fail to back-up their files. Extensions are not granted for computer-related problems.

Grade Appeals

If you are concerned that your assignment was not graded fairly, you may ask to have your assignment reviewed. To request a review of your assignment, you must provide a 1-page statement explaining why you think your assignment was improperly graded (i.e. what do you think you did that should have been given more weight?). The explanation, the original assignment and a clean copy of the assignment, all in hard copy form, must be submitted to the Professor no later than 3 weeks after the assignment grades have been posted on OWL. Grades may be either **raised or lowered** on appeal.

Structure of the Course

The course focuses on both legal and political science literature. The legal literature is covered first so that students can begin to work on their Moot Court assignment, which functions as a capstone course project. For that project, students will be divided into subgroups of counsel who will either advance the rights of a Charter claimant or act as Crown counsel defending the position of the government. Ultimately, competing counsel will square off against one another, presenting their arguments to either invalidate or save legislation in a Moot Court exercise at the end of the course. While there will be group meetings and brainstorming to prepare for the Moot, students will be evaluated individually, with the exception of the Moot Court oral submissions assignment. In addition to the Moot Court project, students will complete 3 quizzes.

While most lectures will be delivered live, because we need to use class time for Moot Court activities and quizzes, some lecture content will be recorded and posted on OWL. However, the goal is to keep recorded lecture content to a minimum.

Evaluation

Please note that students must complete all course components in order to receive a course credit.

Quiz #1 18% (October 5 on weeks 2 and 3)

Summary of Issues 20% (October 19)

Quiz #2 18% (November 16 on weeks 7 and 9)

Quiz #3 14% (November 30 on weeks 10 and 11)

Moot Court Written Submission 20% (December 7)

Moot Court Oral Submission 10% (Group grade – December 7)

Assignment Instructions

Quizzes

Quizzes will occur during class time. All information presented in lectures and all required readings are examinable. **Students who miss a quiz and who receive academic accommodation or self-report will complete a written assignment in lieu of the quiz.**

Summary of Issues (Part of the Moot Court project)

Students will write a summary of the Charter issues raised by a given fact situation. The summary will identify the Charter claims that the fact scenario raises for both the claimant and for the interests being protected by the Crown, and briefly outline the Charter arguments that each side can advance. This assignment may be completed in point form.

Students must complete the assignment in **no more than 5 pages, double spaced, using standard margins and a 12 point font. Students who exceed the 5-page limit or who alter margins, spacing or font will receive a deduction.** Endnotes should be used where there are citations. The endnote page will not count towards the 5-page limit. Citations and bibliographies should be formatted according to the Chicago Style.

On the same day that the summary of issues assignment is due, students, along with the instructor, will meet to discuss the issues raised by the fact scenario. Once the key Charter claims have been identified, students will be told whether they are a member of the claimant's counsel group, which will advance the claimant's Charter rights, or whether they have been assigned to the Crown counsel group, which will protect the interests of the government.

Later, the instructor will subdivide the claimant's group and the Crown group into smaller subgroups and assign each sub-group a specific Charter section to address at the Moot. Students will only advance arguments respecting their assigned Charter section at the Moot Court.

Members of each sub-group will decide which arguments to advance and who will advance the sub-group's arguments at the Moot. Students are encouraged to conduct additional zoom meetings to discuss their strategy. Please contact the instructor to set up additional zoom meeting times for your group or sub-group.

Fact Scenario:

Imad Ali is an inmate in a federal penitentiary. He is a practising Muslim. Prison policy allows female prison guards to conduct frisk searches (over clothing) of male inmates and to undertake surveillance in all areas of the prison. Cross-gender frisk searches and surveillance by male prison guards are not allowed in women's prisons. Imad claims that this gender-based prison policy violates his Charter rights. The Crown contends that the policy supports the Charter rights of female inmates and female prison guards.

Moot Court

The last week of class time will be devoted to conducting the Moot Court where groups of students will present their arguments about the Ali case. There are two components to this assignment.

Written Submission

Each member of every sub-group will hand in a written statement advancing arguments respecting their specific Charter section. This assignment is to be completed individually. **Point form is not acceptable** for this assignment. Students have a **maximum of 5 pages**, double spaced with 12 font type and standard margins, in which to complete this work. **Students who exceed the 5-page limit or who alter margins, spacing or font will receive a deduction.** Students should attach a bibliography and endnote page formatted in the Chicago style for the cases and scholarly works on which they rely. These pages will not be included in the 5-page count.

Oral Submission

Additionally, each sub-group will be provided with a **maximum of 10 minutes** to make oral submissions to the Court respecting their specific Charter section. A timer will be used to keep Counsel on track. Each sub-group will decide which student(s) will make oral submissions on behalf of their sub-group.

Class Schedule

Week 1: September 14
Introduction

Week 2: September 21
The Application of the *Charter*

Class time: Live Lecture

Required:

Canadian Charter of Rights and Freedoms, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c.11. <http://laws-lois.justice.gc.ca/eng/Const/page-15.html>

Patricia Hughes. "The Intersection of Public and Private Under the *Charter*." *University of New Brunswick Law Journal*. 52 (2003): 201-14.

Hutchinson, Allan C., and Andrew Petter. "Private Rights/Public Wrongs: The Liberal Lie of the Charter." *University of Toronto Law Journal* 38 (1988): 278-97.

Recommended:

Petter, Andrew. "Look Who's Talking Now: Dialogue Theory and the Return to Democracy." In *The Politics of the Charter: The Illusive Promise of Constitutional Rights*, 149-66, Toronto: University of Toronto Press, 2010.

Bakan, Joel. "Power to the Powerful." In *Just Words: Constitutional Rights and Social Wrongs*, 87-100. Toronto: University of Toronto Press, 1997.

Brodsky, Gwen, and Shelagh Day. "Beyond the Social and Economic Rights Debate: Substantive Equality Speaks to Poverty." *Canadian Journal of Women and the Law* 14 (2002): 185-220.

Week 3: September 28

Rights and Limits: Sections 1 and 33

Class time: Live Lecture

Required:

*Hiebert, Janet L. "The Supreme Court on Section 1." *Limiting Rights: The Dilemma of Judicial Review*, 52-88. Montreal & Kingston: McGill-Queen's University Press, 1996.

Cameron, Jamie. "The Charter's Legislative Override: Feat or Figment of the Constitutional Imagination?" *Supreme Court Law Review* (2d) 23 (2004): 136-67.

Available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1623789

Recommended:

Antaki, Mark. "The Turn to 'Values' in Canadian Constitutional Law: Critical Essays on R. v. Oakes," In Luc. B. Tremblay and Grégoire C. N. Webber eds., *The Limitation of Charter Rights: Critical Essays on R. v. Oakes*, 155-80. Montreal: Thémis, 2009.

Bredt, Christopher D., and Adam M. Dodek. "The Increasing Irrelevance of Section 1 of the Charter." *Supreme Court Law Review*, 2d ser., 14 (2001): 175-88.

Lajoie, Andrée, and Henry Quillinan. "Emerging Constitutional Norms: Continuous Judicial Amendment of the Constitution - the Proportionality Test as a Moving Target." *Law and Contemporary Problems* 55 (1992): 285-302.

Hiebert, Janet L. "Compromise and the Notwithstanding Clause: Why the Dominant Narrative Distorts Our Understanding," In James B. Kelly and Christopher P. Manfredi eds., *Contested Constitutionalism: Reflections on the Canadian Charter of Rights and Freedoms*, 107-25. Vancouver: UBC Press, 2009.

Russell, Peter H. "Standing Up for Notwithstanding." *Alberta Law Review* 29 (1991): 293-309.

Kahana, Tsvi. "Understanding the Notwithstanding Mechanism." *University of Toronto Law Journal* 52 (2002): 221-74.

Hiebert, Janet L. "Is it Too Late to Rehabilitate Canada's Notwithstanding Clause?" *Supreme Court Law Review*, 2d ser., 23 (2004): 169-89.

Week 4: October 5 **Equality Rights (Women)**

Class time: Quiz #1 on weeks 2 and 3 to be followed by a Live Lecture. If there is insufficient time to finish the lecture, the remainder will be recorded and posted on OWL.

Required:

Morton, FL. "The Charter Revolution and the Court Party." *Osgoode Hall Law Journal* 30, no. 3 (1992):627-52.

Dobrowolsky, Alexandra. "Beyond Winners and Losers? What has happened to women's equality after 25 years of Charter struggles?" Paper delivered at the Annual Meeting of the Canadian Political Science Association, Vancouver, British Columbia, 4-6 June 2008.

www.cpsa-acsp.ca/papers-2008/Dobrowolsky.pdf

Newfoundland Treasury Board v. N.A.P.E., [2004] 3 S.C.R. 381.
(abbreviated version available in course web site)

Recommended:

McGill, Jena and Daphne Gilbert. "Of Promise and Peril: The Court and Equality Rights." *Supreme Court Law Reports* (2d). 78 (2017) 235-57.

Ryder, Bruce, Cidalia Faria, and Emily Lawrence, "What's *Law* Good For? An Empirical Overview of Charter Equality Rights Decisions." *Supreme Court Law Review*(2d) 24 (2004):103-36.

Majury, Diana. "The *Charter*, Equality Rights, and Women: Equivocation and Celebration." *Osgoode Hall Law Journal* 40 (2002): 297-336.

Sheppard, Colleen. "Grounds of Discrimination: Towards an Inclusive and Contextual Approach." *Canadian Bar Review* 80 (2001): 893-916.

McIntyre, Sheila. "The Supreme Court and Section 15: A Thin and Impoverished Notion of Judicial Review." *Queen's Law Journal* 31, no. 2 (2005-2006): 731-69.

Law v. Canada (Minister of Employment and Immigration), [1999] 1 S.C.R. 497.

Week 5: October 12

No Lecture: Thanksgiving

Class time: Consumption of vast quantities of food to be followed by drowsiness and gastronomical discomfort for those who subscribe to this holiday.

Week 6: October 19 *Moot Court Summary of Issues Due*****

Moot Court Preparation

*Class Time: Moot Court issue identification with instructor. ** There will be two sessions. Students will be assigned to either an 11:30 am start time or a 12:30 pm start time. Once we have identified the Charter issues in play, students will be told whether their group will function as Crown Counsel or Counsel for the Charter claimant.***

Week 7: October 26

The Charter's Democratic Implications: The Supreme Court of Canada as Policy Maker

Class time: Live Lecture

Required:

*Morton, F. L., and Rainer Knopff. "The Supreme Court as the Vanguard of the Intelligentsia: The Charter Movement as Postmaterialist Politics." In *Canadian Constitutionalism 1791-1991*, ed. Janet Ajzenstat, 57-80. Ottawa: Canadian Study of Parliament Group, 1992. **(pages 57-64 only)**

*Knopff, Rainer, and F. L. Morton. "The Politics of Interpretation." In *Charter Politics*, 98-119, Scarborough: Nelson, 1992. **(pages 98-101 and 108-114 only)**

Kelly, James B., and Michael Murphy. "Confronting Judicial Supremacy: A Defence of Judicial Activism and the Supreme Court of Canada's Legal Rights Jurisprudence." *Canadian Journal of Law and Society* 16, no. 1 (2001): 3-27.

Recommended:

Roach, Kent. "Dialogue or Defiance: Legislative Reversals of Supreme Court Decisions in Canada and the United States." *International Journal of Constitutional Law* 4, no. 2 (2006): 347-70.

Manfredi, Christopher. *Judicial Power and the Charter: Canada and the Paradox of Liberal Constitutionalism*, 2d ed., Oxford University Press, 2001.

Knopff, Rainer. "How Democratic is the Charter? And Does it Matter?" *Supreme Court Law Review*, 2d ser., 19 (2003): 199-217.

Mandel, Michael. "The Charter and Democracy." In *The Charter of Rights and the Legalization of Politics in Canada*, rev. ed., 39-61. Toronto: Thompson Publishing, 1994.

Week 8: November 2

Reading week

Week 9: November 9

Parliament and the Courts: Who Determines the Meaning of the *Charter*?

Class time: Live Lecture

Required:

Hogg, Peter H., and Allison Bushell. "The Charter Dialogue Between Courts and Legislatures (Or Perhaps the *Charter Of Rights* Isn't Such a Bad Thing)." *Osgoode Hall Law Journal* 35 (1997): 75-124. (pages 75-105 only) ****You do not need to print/read the appendix.**

Manfredi, Christopher, and James B. Kelly. "Six Degrees of Dialogue: A Response to Hogg and Bushell." *Osgoode Hall Law Journal* 37 (1999): 513-27.

Recommended:

Huscroft, Grant. "Rationalizing Judicial Power: The Mischief of Dialogue Theory," In James B. Kelly and Christopher P. Manfredi eds., *Contested Constitutionalism: Reflections on the Canadian Charter of Rights and Freedoms*, 50-65. Vancouver: UBC Press, 2009.

Hogg, Peter W., Allison A. Bushell Thornton, and Wade K. Wright. "*Charter* Dialogue Revisited – or 'Much Ado About Metaphors'." *Osgoode Hall Law Journal* 45 (2007): 1-65.

Manfredi, Christopher P., and James B. Kelly. "Misrepresenting the Supreme Court's Record? A Comment on Sujit Choudhry and Claire E. Hunter, 'Measuring Judicial Activism on the Supreme Court of Canada'." *McGill Law Journal* 49 (2004): 741-64.

Roach, Kent. *The Supreme Court on Trial: Judicial Activism or Democratic Dialogue*. Toronto: Irwin Law, 2001.

Week 10: November 16

The *Charter*, Executive Power and Federalism

Class time: Quiz #2 on Weeks 7 and 9 to be followed by Live Lecture on Executive Power. The Federalism portion of the lecture will be recorded and posted online.

Required:

*Kelly, James, B. "Governing with the Charter of Rights and Freedoms." *Supreme Court Law Review*, 2d ser., 21 (2003): 299-337.

Kelly, James, B. "Reconciling Rights and Federalism during Review of the Charter of Rights and Freedoms: The Supreme Court of Canada and the Centralization thesis, 1982 to 1999." *Canadian Journal of Political Science* 34, no. 2 (2001): 325-55.

Recommended:

Radmilovic, Vuk. "Governmental Interventions and Judicial Decision Making: The Supreme Court of Canada in the Age of the Charter." *Canadian Journal of Political Science* 46, no. 2 (2013): 323-44.

Wright, Wade K. "Facilitating Intergovernmental Dialogue: Judicial Review of the Division of Powers in the Supreme Court of Canada." *Supreme Court Law Review* 51 (2010): 629-93.

Russell, Peter H. "The *Charter* and Canadian Democracy." In James B. Kelly and Christopher P. Manfredi eds., *Contested Constitutionalism: Reflections on the Canadian Charter of Rights and Freedoms*, 287-306. Vancouver: UBC Press, 2009.

Hogg, Peter W. "Federalism Fights the Charter of Rights." In David P. Shugarman and Reg Whitaker eds., *Federalism and Political Community: Essays in Honour of Donald Smiley*, 249-66. Peterborough: Broadview Press, 1989.

Cairns, Alan C. *Charter versus Federalism: The Dilemmas of Constitutional Reform*. Montreal & Kingston: McGill-Queen's Press, 1992.

Week 11: November 23
Socioeconomic Rights

Class time: Live Lecture

Required:

*Jackman, Martha. "Reality Checks: Presuming Innocence and Proving Guilt in Charter Welfare Cases." In Margot Young, Susan B. Boyd, Gwen Brodsky, and Shelagh Day ed. *Poverty: Rights, Social Citizenship and Legal Activism*, 23-39. Vancouver: UBC Press, 2007.

Gosselin v. Quebec (Attorney General), [2002] 4 S.C.R. 429.
(abbreviated version available in course web site)

Recommended:

Petter, Andrew. "Wealthcare: The Politics of the *Charter* Revisited," In *The Politics of the Charter: The Illusive Promise of Constitutional Rights*, 167-89, Toronto: University of Toronto Press, 2010.

Brodsky, Gwen, and Shelagh Day. "Women's Poverty is an Equality Violation." In *Making Equality Rights Real: Securing Substantive Equality under the Charter*, ed. Fay Faraday, Margaret Denike and M. Kate Stephenson, 319-44. Toronto: Irwin Law, 2006.

Langford, Malcolm. *Social Rights Jurisprudence*. Cambridge: Cambridge University Press, 2009.

Wiseman, David. "The Charter and Poverty: Beyond Injusticiability." *University of Toronto Law Journal* 51 (2001): 425-58.

Week 12: November 30

Class time: Quiz #3 on weeks 10 and 11 to be followed by sub-group meetings in Zoom break-out rooms.

Week 13: December 7 **Moot Court Written Submission Due**

Class time: Moot Court!

APPENDIX A: APPENDIX TO UNDERGRADUATE COURSE OUTLINES DEPARTMENT OF POLITICAL SCIENCE

Prerequisite checking - the student's responsibility

"Unless you have either the requisites for this course or written special permission from your Dean to enroll in it, you may be removed from this course and it will be deleted from your record. This decision may not be appealed. You will receive no adjustment to your fees in the event that you are dropped from a course for failing to have the necessary prerequisites."

Essay course requirements

With the exception of 1000-level courses, most courses in the Department of Political Science are essay courses. Total written assignments (excluding examinations) will be at least 3,000 words in Politics 1020E, at least 5,000 words in a full course numbered 2000 or above, and at least 2,500 words in a half course numbered 2000 or above.

Use of Personal Response Systems ("Clickers")

"Personal Response Systems ("clickers") may be used in some classes. If clickers are to be used in a class, it is the responsibility of the student to ensure that the device is activated and functional. Students must see their instructor if they have any concerns about whether the clicker is malfunctioning.

Students must use only their own clicker. If clicker records are used to compute a portion of the course grade:

- the use of somebody else's clicker in class constitutes a scholastic offence,
- the possession of a clicker belonging to another student will be interpreted as an attempt to commit a scholastic offence."

Security and Confidentiality of Student Work (refer to current *Western Academic Calendar*

<http://www.westerncalendar.uwo.ca/>)

"**Submitting or Returning Student Assignments, Tests and Exams** - All student assignments, tests and exams will be handled in a secure and confidential manner. Particularly in this respect, leaving student work unattended in public areas for pickup is not permitted."

Duplication of work

Undergraduate students who submit similar assignments on closely related topics in two different courses must obtain the consent of both instructors prior to the submission of the assignment. If prior approval is not obtained, each instructor reserves the right not to accept the assignment.

Grade adjustments

In order to ensure that comparable standards are applied in political science courses, the Department may require instructors to adjust final marks to conform to Departmental guidelines.

Academic Offences

"Scholastic offences are taken seriously and students are directed to read the appropriate policy, specifically, the definition of what constitutes a Scholastic Offence, at the following Web site:

<http://www.uwo.ca/univsec/handbook/appeals/scholoff.pdf>."

Submission of Course Requirements

ESSAYS, ASSIGNMENTS, TAKE-HOME EXAMS MUST BE SUBMITTED ACCORDING TO PROCEDURES SPECIFIED BY YOUR INSTRUCTOR (I.E., IN CLASS, DURING OFFICE HOURS, TA'S OFFICE HOURS) OR UNDER THE INSTRUCTOR'S OFFICE DOOR.

THE MAIN OFFICE DOES NOT DATE-STAMP OR ACCEPT ANY OF THE ABOVE.

Note: Information excerpted and quoted above are Senate regulations from the Handbook of Scholarship and Academic Policy. <http://www.uwo.ca/univsec/handbook/>

Students registered in Social Science should refer to <http://counselling.ssc.uwo.ca/> <http://counselling.ssc.uwo.ca/procedures/havingproblems.asp> for information on Medical Policy, Term Tests, Final Examinations, Late Assignments, Short Absences, Extended Absences, Documentation and other Academic Concerns. Non-Social Science students should refer to their home faculty's academic counselling office.

Plagiarism

"Plagiarism: Students must write their essays and assignments in their own words. Whenever students take an idea, or a passage from another author, they must acknowledge their debt both by using quotation marks where appropriate and by proper referencing such as footnotes or citations. Plagiarism is a major academic offence." (see Scholastic Offence Policy in the Western Academic Calendar).

Plagiarism Checking: "All required papers may be subject to submission for textual similarity review to the commercial plagiarism detection software under license to the University for the detection of plagiarism. All papers submitted for such checking will be included as source documents in the reference database for the purpose of detecting plagiarism of papers subsequently submitted to the system. Use of the service is subject to the licensing agreement, currently between The University of Western Ontario and Turnitin.com (<http://www.turnitin.com>)."

Multiple-choice tests/exams: "Computer-marked multiple-choice tests and/or exams may be subject to submission for similarity review by software that will check for unusual coincidences in answer patterns that may indicate cheating."

Note: Information excerpted and quoted above are Senate regulations from the Handbook of Scholarship and Academic Policy. <http://www.uwo.ca/univsec/handbook/>

PLAGIARISM*

In writing scholarly papers, you must keep firmly in mind the need to avoid plagiarism. Plagiarism is the unacknowledged borrowing of another writer's words or ideas. Different forms of writing require different types of acknowledgement. The following rules pertain to the acknowledgements necessary in academic papers.

A. In using another writer's words, you must both place the words in quotation marks and acknowledge that the words are those of another writer.

You are plagiarizing if you use a sequence of words, a sentence or a paragraph taken from other writers without acknowledging them to be theirs. Acknowledgement is indicated either by (1) mentioning the author and work from which the words are borrowed in the text of your paper; or by (2) placing a footnote number at the end of the quotation in your text, and including a correspondingly numbered footnote at the bottom of the page (or in a separate reference section at the end of your essay). This footnote should indicate author, title of the work, place and date of publication, and page number.

Method (2) given above is usually preferable for academic essays because it provides the reader with more information about your sources and leaves your text uncluttered with parenthetical and tangential references. In either case words taken from another author must be enclosed in quotation marks or set off from your text by single spacing and indentation in such a way that they cannot be mistaken for your own words. Note that you cannot avoid indicating quotation simply by changing a word or phrase in a sentence or paragraph which is not your own.

B. In adopting other writers' ideas, you must acknowledge that they are theirs.

You are plagiarizing if you adopt, summarize, or paraphrase other writers' trains of argument, ideas or sequences of ideas without acknowledging their authorship according to the method of acknowledgement given in 'A' above. Since the words are your own, they need not be enclosed in quotation marks. Be certain, however, that the words you use are entirely your own; where you must use words or phrases from your source, these should be enclosed in quotation marks, as in 'A' above.

Clearly, it is possible for you to formulate arguments or ideas independently of another writer who has expounded the same ideas, and whom you have not read. Where you got your ideas is the important consideration here. Do not be afraid to present an argument or idea without acknowledgement to another writer, if you have arrived at it entirely independently. Acknowledge it if you have derived it from a source outside your own thinking on the subject.

In short, use of acknowledgements and, when necessary, quotation marks is necessary to distinguish clearly between what is yours and what is not. Since the rules have been explained to you, if you fail to make this distinction your instructor very likely will do so for you, and they will be forced to regard your omission as intentional literary theft. Plagiarism is a serious offence which may result in a student's receiving an 'F' in a course or, in extreme cases in their suspension from the University.

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Adopted by the council of the Faculty of Social Science, October, 1970; approved by the Dept. of History

August 13, 1991

Accessibility at Western: Please contact poliscie@uwo.ca if you require any information in plain text format, or if any other accommodation can make the course material and/or physical space accessible to you.

SUPPORT SERVICES

Students who are in emotional/mental distress should refer to Mental Health@Western

<http://www.uwo.ca/uwocom/mentalhealth/> for a complete list of options about how to obtain help.

Appendix B - Procedures for Requesting Academic Consideration

Students who experience an extenuating circumstance (illness, injury, or other extenuating circumstance) sufficiently significant to temporarily render them unable to meet academic requirements may submit a request for academic consideration through the following routes:

- Submitting a Self-Reported Absence form provided that the conditions for submission are met;
- For medical absences, submitting a Student Medical Certificate (SMC) signed by a licensed medical or mental health practitioner in order to be eligible for Academic Consideration; or
- For non-medical absences, submitting appropriate documentation (e.g., obituary, police report, accident report, court order, etc.) to Academic Counselling in their Faculty of registration in order to be eligible for academic consideration. Students are encouraged to contact their Academic Counselling unit to clarify what documentation is appropriate.

Students seeking academic consideration:

- are advised to consider carefully the implications of postponing tests or midterm exams or delaying handing in work;
- are encouraged to make appropriate decisions based on their specific circumstances, recognizing that minor ailments (upset stomach) or upsets (argument with a friend) are **not** an appropriate basis for a self-reported absence;
- must communicate with their instructors **no later than 24 hours** after the end of the period covered by either the self-reported absence or SMC, or immediately upon their return following a documented absence.

Academic consideration **is not** normally intended for the following circumstances:

- Students who require academic accommodation based on an ongoing physical or mental illness (recurring or chronic) or an existing disability. These students are expected to seek and arrange

reasonable accommodations with Student Accessibility Services (SAS) as soon as possible in accordance with the Policy on Academic Accommodation for Students with Disability.

- Students who experience high levels of stress related to academic performance (including completing assignments, taking part in presentations, or writing tests or examinations). These students should access support through Student Health and Wellness and Learning Skills Services in order to deal with this stress in a proactive and constructive manner.

Requests for Academic Consideration Using the Self-Reported Absence Form

Students who experience an unexpected illness or injury or an extenuating circumstance (48 hours or less) that is sufficiently severe to temporarily render them unable to meet academic requirements (e.g., attending lectures or labs, writing tests or midterm exams, completing and submitting assignments, participating in presentations) should self-declare using the **online Self-Reported Absence portal**. This option should be used in situations where the student expects to resume academic responsibilities **within 48 hours or less**.

The following conditions are in place for self-reporting of medical or extenuating circumstances: Students will be allowed:

- a maximum of two self-reported absences between September and April;
- a maximum of one self-reported absence between May and August.

Any absences in excess of the number designated above, regardless of duration, will require students to present a Student Medical Certificate (SMC) no later than two business days after the date specified for resuming responsibilities.

- The duration of the excused absence will be for a maximum of 48 hours from the time the Self-Reported Absence form is completed through the online portal, or from 8:30 am the following morning if the form is submitted after 4:30 pm;
- The duration of the excused absence will terminate prior to the end of the 48 hour period should the student undertake significant academic responsibilities (write a test, submit a paper) during that time;
- The duration of an excused absence will terminate at 8:30 am on the day following the last day of classes each semester regardless of how many days of absence have elapsed;
- Self-reported absences **will not be** allowed for scheduled final examinations; for midterm examinations scheduled during the December examination period;
- Self-reporting **may not be** used for assessments (e.g. midterm exams, tests, reports, presentations, or essays) worth more than 30% of any given course.
- students must be in touch with their instructors **no later than 24 hours** after the end of the period covered by the Self-Reported Absence form, to clarify how they will be expected to fulfil the academic expectations they may have missed during the absence.

Request for Academic Consideration for a Medical Absence

Students seeking academic consideration for a medical absence not covered by existing Student Accessibility Services (SAS) accommodation, will be required to provide documentation in person to Academic Counselling in their Faculty of registration in the form of a completed, signed Student Medical Certificate (SMC) where the conditions for a Self-Reported Absence have not been met, including where the student has exceeded the maximum number of permissible Self-Reported Absences.

Request for Academic Consideration for a Non-Medical Absence

Students seeking academic consideration for a non-medical absence will be required to provide appropriate documentation to Academic Counselling in their Faculty of registration where the conditions for a Self-Reported Absence have not been met, including where the student has exceeded the maximum number of permissible Self-Reported Absences.