

LAW403 Evidence

School: School of Law and Society

2022 | Semester 1

UniSC Sunshine Coast

**BLENDED
LEARNING**

Most of your course is on campus but you may be able to do some components of this course online.

Please go to usc.edu.au for up to date information on the teaching sessions and campuses where this course is usually offered.

1. What is this course about?**1.1. Description**

This course introduces you to the sources of evidence law and fundamental principles of evidence law including burdens and standards of proof; the presumption of innocence; relevance; probative value; admissibility, weight, judicial notice, illegally obtained evidence; judicial discretion; judicial directions; judicial warnings; corroboration and public policy. You will examine the rules about oral, documentary and real evidence including the competence and compellability of witnesses; credibility of witnesses; examination of witnesses during the trial process; the role of views; and how to prove documents and real evidence. You will also examine the rules excluding evidence and the exceptions to those rules, for example, privileged, hearsay, implied admissions, circumstantial, similar fact, coincidence, tendency (disposition) evidence, character and opinion. The course will assist you to understand the legal rules of evidence relating to criminal and civil trials.

1.2. How will this course be delivered?

ACTIVITY	HOURS	BEGINNING WEEK	FREQUENCY
BLENDED LEARNING			
Lecture – On campus lectures - 2 hours in weeks 1-6 and 8-13.	2hrs	Week 1	12 times
Tutorial/Workshop 1 – On campus and/or online tutorial - 1 hour in weeks 2-6 and 8-13.	1hr	Week 2	11 times

1.3. Course Topics

Sources of law of evidence; functions of the judge, counsel and jury in the adversarial system; burden and standard of proof

Main facts in issue and collateral facts in issue; relevance, admissibility, weight, exclusionary rules, discretion to exclude, illegally obtained evidence, voir dire

Competence, compellability and privilege, including the accused as a witness; examination of particular classes of witnesses – children, Indigenous people, people from non-English speaking backgrounds and complainants in sexual offences (including corroboration)

The trial process – examination-in-chief

The trial process – cross-examination, re-examination, rebuttal, objections

Documentary evidence and real evidence

Hearsay

Exceptions to hearsay including common law, statutory and res gestae

Admissions and confessions (including illegally obtained evidence)

Circumstantial evidence; similar fact evidence; character evidence

Opinion evidence

2. What level is this course?

400 Level (Graduate)

Demonstrating coherence and breadth or depth of knowledge and skills. Independent application of knowledge and skills in unfamiliar contexts. Meeting professional requirements and AQF descriptors for the degree. May require pre-requisites where discipline specific introductory or developing knowledge or skills is necessary. Normally undertaken in the third or fourth full-time study year of an undergraduate program.

3. What is the unit value of this course?

12 units

4. How does this course contribute to my learning?

COURSE LEARNING OUTCOMES		GRADUATE QUALITIES
On successful completion of this course, you should be able to...		Completing these tasks successfully will contribute to you becoming...
1	Demonstrate a coherent and advanced knowledge of the rules of evidence, evidential concepts and principles	Knowledgeable Empowered
2	Demonstrate cognitive skills to exercise critical thinking, such as interpret, analyse, evaluate and synthesise knowledge of the rules of evidence to identify and provide solutions to complex problems with intellectual independence.	Creative and critical thinker
3	Demonstrate communication skills to present a clear and coherent understanding of the rules of evidence to a legal audience.	Engaged
4	Demonstrate the application of the rules of evidence and skills with responsibility and accountability for own learning and reflective practice and in collaboration with others.	Empowered Engaged

5. Am I eligible to enrol in this course?

Refer to the [UniSC Glossary of terms](#) for definitions of “pre-requisites, co-requisites and anti-requisites”.

5.1. Pre-requisites

LAW104 and LAW304 and enrolled in any Law Program

5.2. Co-requisites

Not applicable

5.3. Anti-requisites

Not applicable

5.4. Specific assumed prior knowledge and skills (where applicable)

Not applicable

6. How am I going to be assessed?

6.1. Grading Scale

Standard Grading (GRD)

High Distinction (HD), Distinction (DN), Credit (CR), Pass (PS), Fail (FL).

6.2. Details of early feedback on progress

In the tutorials in Weeks 2-6, you will engage in activities that ask you to self-assess and reflect on your learning; and provide peer feedback on tutorial answers.

6.3. Assessment tasks

DELIVERY MODE	TASK NO.	ASSESSMENT PRODUCT	INDIVIDUAL OR GROUP	WEIGHTING %	WHAT IS THE DURATION / LENGTH?	WHEN SHOULD I SUBMIT?	WHERE SHOULD I SUBMIT IT?
All	1	Essay	Individual	25%	1000 words	Week 6	Online Assignment Submission with plagiarism check
All	2	Journal	Individual	25%	1000 words	Week 10	Online Assignment Submission with plagiarism check
All	3	Examination - Centrally Scheduled	Individual	50%	4 Hours	Exam Period	Online Assignment Submission with plagiarism check

All - Assessment Task 1: Written Piece

GOAL:	The goal of the written piece is to assess your knowledge of the rules of evidence, evidential concepts and principles. It will also assess your communication skills.		
PRODUCT:	Essay		
FORMAT:	This task is to be completed individually and requires an analytical essay format. The maximum word limit is 1000 words.		
CRITERIA:	No.		Learning Outcome assessed
	1	Demonstrates a coherent and advanced knowledge of the rules of evidence, evidential concepts and principles.	1
	2	Demonstrates critical thinking, such as interpret, analyse, evaluate and synthesise knowledge of the rules of evidence to identify and provide solutions to complex problems with intellectual independence.	2
	3	Applies communication skills to present a clear, coherent understanding of the rules of evidence to a legal audience.	3

All - Assessment Task 2: Journal

GOAL:	The goal of the journal is to assess your knowledge of the rules of evidence, evidential concepts and principles. It will also assess your problem-solving skills, communication skills and collaboration skills.		
PRODUCT:	Journal		
FORMAT:	This task requires an individual written reflection on learning activities relevant to the trial process. The learning activities will be completed collaboratively in a law firm (team of 4-5 students) in the tutorials in Weeks 8 and 9. This includes reflecting on planning questions for examination-in-chief and cross-examination; simulating counsel by asking questions of a witness in the Moot Court; objecting to questions asked by opponent counsel; and collaborating with other students. The maximum word limit is 1000 words.		
CRITERIA:	No.		Learning Outcome assessed
	1	Demonstrates the responsibility and accountability for own learning and reflective practice on the application of the rules of evidence and skills; and collaboration with others.	1 4
	2	Applies communication skills to present a clear, coherent understanding of the rules of evidence to a legal audience.	2 3

All - Assessment Task 3: Final Examination

GOAL:	The goal of this assessment is to test your ability to apply the legal principles and concepts learned this semester to unseen questions.		
PRODUCT:	Examination - Centrally Scheduled		
FORMAT:	This is an individual examination completed during the central examination period. You will be given 4 hours to complete and submit the examination. All topics covered in the lectures and tutorials are potentially examinable. In preparation for this task, you will receive formative feedback from your lecturer and tutor throughout this course.		
CRITERIA:	No.		Learning Outcome assessed
	1	Demonstrates a coherent and advanced knowledge of the rules of evidence, evidential concepts and principles; and the ability to apply them to complex factual problems.	1 2 3 4

7. Directed study hours

A 12-unit course will have total of 150 learning hours which will include directed study hours (including online if required), self-directed learning and completion of assessable tasks. Student workload is calculated at 12.5 learning hours per one unit.

8. What resources do I need to undertake this course?

Please note: Course information, including specific information of recommended readings, learning activities, resources, weekly readings, etc. are available on the course Canvas site– Please log in as soon as possible.

8.1. Prescribed text(s) or course reader

Please note that you need to have regular access to the resource(s) listed below. Resources may be required or recommended.

REQUIRED?	AUTHOR	YEAR	TITLE	EDITION	PUBLISHER
Required	David Field	2019	Queensland Evidence Law	5th ed	Lexis Nexis

8.2. Specific requirements

Nil

9. How are risks managed in this course?

Health and safety risks for this course have been assessed as low. It is your responsibility to review course material, search online, discuss with lecturers and peers and understand the health and safety risks associated with your specific course of study and to familiarise yourself with the University's general health and safety principles by reviewing the [online induction training for students](#), and following the instructions of the University staff.

10. What administrative information is relevant to this course?

10.1. Assessment: Academic Integrity

Academic integrity is the ethical standard of university participation. It ensures that students graduate as a result of proving they are competent in their discipline. This is integral in maintaining the value of academic qualifications. Each industry has expectations and standards of the skills and knowledge within that discipline and these are reflected in assessment.

Academic integrity means that you do not engage in any activity that is considered to be academic fraud; including plagiarism, collusion or outsourcing any part of any assessment item to any other person. You are expected to be honest and ethical by completing all work yourself and indicating in your work which ideas and information were developed by you and which were taken from others. You cannot provide your assessment work to others. You are also expected to provide evidence of wide and critical reading, usually by using appropriate academic references.

In order to minimise incidents of academic fraud, this course may require that some of its assessment tasks, when submitted to Canvas, are electronically checked through Turnitin. This software allows for text comparisons to be made between your submitted assessment item and all other work to which Turnitin has access.

10.2. Assessment: Additional Requirements

Your eligibility for supplementary assessment in a course is dependent of the following conditions applying:

The final mark is in the percentage range 47% to 49.4%

The course is graded using the Standard Grading scale

You have not failed an assessment task in the course due to academic misconduct.

10.3. Assessment: Submission penalties

Late submission of assessment tasks may be penalised at the following maximum rate:

- 5% (of the assessment task's identified value) per day for the first two days from the date identified as the due date for the assessment task.

- 10% (of the assessment task's identified value) for the third day - 20% (of the assessment task's identified value) for the fourth day and subsequent days up to and including seven days from the date identified as the due date for the assessment task.

- A result of zero is awarded for an assessment task submitted after seven days from the date identified as the due date for the assessment task. Weekdays and weekends are included in the calculation of days late. To request an extension you must contact your course coordinator to negotiate an outcome.

10.4. SafeUniSC

UniSC is committed to a culture of respect and providing a safe and supportive environment for all members of our community. For immediate assistance on campus contact SafeUniSC by phone: [07 5430 1168](tel:0754301168) or using the [SafeZone](#) app. For general enquires contact the SafeUniSC team by phone [07 5456 3864](tel:0754563864) or email safe@usc.edu.au.

The SafeUniSC Specialist Service is a Student Wellbeing service that provides free and confidential support to students who may have experienced or observed behaviour that could cause fear, offence or trauma. To contact the service call [07 5430 1226](tel:0754301226) or email studentwellbeing@usc.edu.au.

10.5. Study help

For help with course-specific advice, for example what information to include in your assessment, you should first contact your tutor, then your course coordinator, if needed.

If you require additional assistance, the Learning Advisers are trained professionals who are ready to help you develop a wide range of academic skills. Visit the [Learning Advisers](#) web page for more information, or contact Student Central for further assistance: +61 7 5430 2890 or studentcentral@usc.edu.au.

10.6. Wellbeing Services

Student Wellbeing provide free and confidential counselling on a wide range of personal, academic, social and psychological matters, to foster positive mental health and wellbeing for your academic success.

To book a confidential appointment go to [Student Hub](#), email studentwellbeing@usc.edu.au or call 07 5430 1226.

10.7. AccessAbility Services

Ability Advisers ensure equal access to all aspects of university life. If your studies are affected by a disability, learning disorder mental health issue, injury or illness, or you are a primary carer for someone with a disability or who is considered frail and aged, [AccessAbility Services](#) can provide access to appropriate reasonable adjustments and practical advice about the support and facilities available to you throughout the University.

To book a confidential appointment go to [Student Hub](#), email AccessAbility@usc.edu.au or call 07 5430 2890.

10.8. Links to relevant University policy and procedures

For more information on Academic Learning & Teaching categories including:

- Assessment: Courses and Coursework Programs
- Review of Assessment and Final Grades
- Supplementary Assessment
- Central Examinations
- Deferred Examinations
- Student Conduct
- Students with a Disability

For more information, visit <https://www.usc.edu.au/explore/policies-and-procedures#academic-learning-and-teaching>

10.9. Student Charter

UniSC is committed to excellence in teaching, research and engagement in an environment that is inclusive, inspiring, safe and respectful. The [Student Charter](#) sets out what students can expect from the University, and what in turn is expected of students, to achieve these outcomes.

10.10. General Enquiries

In person:

- **UniSC Sunshine Coast** - Student Central, Ground Floor, Building C, 90 Sippy Downs Drive, Sippy Downs
- **UniSC Moreton Bay** - Service Centre, Ground Floor, Foundation Building, Gympie Road, Petrie
- **UniSC SouthBank** - Student Central, Building A4 (SW1), 52 Merivale Street, South Brisbane
- **UniSC Gympie** - Student Central, 71 Cartwright Road, Gympie
- **UniSC Fraser Coast** - Student Central, Student Central, Building A, 161 Old Maryborough Rd, Hervey Bay
- **UniSC Caboolture** - Student Central, Level 1 Building J, Cnr Manley and Tallon Street, Caboolture

Tel: +61 7 5430 2890

Email: studentcentral@usc.edu.au