

LGST 331 Administrative Law



[SALS - Home](#) ▶ [LGST331](#)

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Upcoming Events

There are no upcoming events

[Go to calendar...](#)
[New Event...](#)

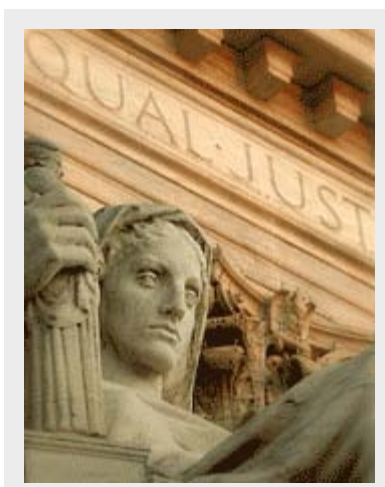
Latest News

(No news has been posted yet)

Course Menu

- [LGST331](#)
- [Control Panel](#)
- [Gradebook](#)
- [Calendar](#)
- [Show All Sections](#)
- [Study Guide - Fou...](#)
- [Study Guide - Adm...](#)
- [Study Guide - The...](#)
- [Study Guide - Fai...](#)
- [Study Guide - Fai...](#)
- [Study Guide - Adv...](#)
- [Study Guide - Tri...](#)
- [Study Guide - Tri...](#)
- [Study Guide - Pre...](#)
- [Study Guide - Man...](#)
- [Study Guide - Con...](#)

Topic outline



Administrative Law discusses that branch of the law dealing with relationships between the individual citizen and government, whether at the federal, provincial or municipal level. It also deals with boards, authorities, commissions, and committees created by government. LGST 331 will be of particular interest to those who are either employed or interested in public administration or who have occasion to deal with government in their professional or private life. Begin this course by reading the Student Manual below, then proceed with your studies starting with Unit 1, Foundations and working through the fourteen units.

Calendar

◀ **October 2009** ▶




Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

Events Key

	Global		Course
	Group		User

My courses

- [LGST 331: Administrative Law](#)
 - [LGST 369: Commercial Law \(Revision 6\)](#)
 - [LGST 369: Commercial Law \(Revision 7\)](#)
 - [LGST 430: The Canadian Legal System](#)
- [All courses ...](#)

-  [Study Guide - Tri...](#)
-  [Study Guide - Cha...](#)
-  [Study Guide - Enf...](#)

People

 [Participants](#)

Administration

 [Grades](#)
 [Profile](#)




Course Materials

-  [Student Manual](#)
-  [Copyright & Credits](#)







Communication

-  [Internal Mail](#)
-  [Course Discussion](#)
-  [News and Announcements](#)

Resources

-  [Legal Studies Research Guide](#)
-  [AU Write Site - writing help](#)
-  [Website Orientation \(Moodle\)](#)

Assignment Instructions and Submission (Drop Boxes)

-  [Additional Readings for Assignments](#)
 -  [Assignment 1](#)
 -  [Assignment 2](#)
 -  [Assignment 3](#)
 -  [Assignment 4](#)
 -  [Assignment 5](#)

1 Study Guide - Foundations

 [Unit 1 - Foundations](#)

2 Study Guide - Administrative Agencies and Tribunals

 [Unit 2 - Administrative Agencies and Tribunals](#)

3 Study Guide - The Legal Basis of Administrative Law

 [Unit 3 The Legal Basis of Administrative Law](#)

4 Study Guide - Fairness: The Right to Be Heard

 [Unit 4 Fairness: The Right to Be Heard](#)

5 Study Guide - Fairness: Bias

 [Unit 5 Fairness: Bias](#)

6 Study Guide - Advocacy before Administrative Tribunals

 [Unit 6 Advocacy before Administrative Tribunals](#)


7 Study Guide - Tribunal Procedures prior to Hearings

 [Unit 7 Tribunal Procedures prior to Hearings](#)

8 Study Guide - Tribunal Procedures during Hearings

 [Unit 8 Tribunal Procedures during Hearings](#)


9 Study Guide - Presenting Evidence at a Hearing

 [Unit 9 Presenting Evidence at a Hearing](#)

10 Study Guide - Management and Control of the Hearing Process

 [Unit 10 Management and Control of the Hearing Process](#)

11 Study Guide - Conduct Outside the Hearing

 [Unit 11 Conduct Outside the Hearing](#)

12 Study Guide - Tribunal Decision-Making Procedures

 [Unit 12 Tribunal Decision-Making Procedures](#)

13 Study Guide - Challenging Decisions of Tribunals

 [Unit 13 Challenging Decisions of Tribunals](#)

14 Study Guide - Enforcement of Tribunal Decisions

 [Unit 14 Enforcement of Tribunal Decisions](#)

[SALS - Home](#) ► [LGST331](#)

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LGST 331
Administrative Law



[SALS - Home](#) ▶ [LGST331](#) ▶ [Books](#) ▶ [Unit 1 - Foundations](#)

◀ Jump to... ▶

Table of Contents



1.0 Learning Objectives

- [1.1 The Nature of Law](#)
- [1.2 Divisions of Law](#)
- [1.3 Functions of Law](#)
- [1.4 Sources of Canadian Law](#)
- [1.5 The Canadian Court System](#)
- [1.6 Statutory Interpretation](#)
- [1.7 Study Questions](#)
- [1.8 Suggested Answers](#)
- [1.9 Supplementary Reading List](#)

Learning Objectives

After completing this unit, you should be able to:

1. Explain what law is and the difference between substantive and procedural law; statute law and common law; public law and private law; and statutes and subordinate legislation.
2. Explain briefly what the Charter of Rights and Freedoms is, and when it can apply to a tribunal.
3. Identify the role of government-appointed boards, tribunals, and agencies.
4. Discuss the necessity to interpret statutes, regulations, and bylaws.
5. Outline the traditional and modern approaches to statutory interpretation.
6. Identify the tools for interpreting statutes.

Reading Assignment

Administrative Law: Principles and Advocacy, Chapter 1 and Appendix A

Administrative Procedures and Jurisdiction Act (of Alberta), S.A. 2006 c. A-3 as amended



[SALS - Home](#) ▶ [LGST331](#) ▶ [Books](#) ▶ [Unit 1 - Foundations](#)

◀ Jump to... ▶

LGST 331

Administrative Law



[SALS - Home](#) ▶ [LGST331](#) ▶ [Books](#) ▶ [Unit 1 - Foundations](#)

◀ Jump to... ▶

Table of Contents



- [1.0 Learning Objectives](#)
- [1.1 The Nature of Law](#)**
- [1.2 Divisions of Law](#)
- [1.3 Functions of Law](#)
- [1.4 Sources of Canadian Law](#)
- [1.5 The Canadian Court System](#)
- [1.6 Statutory Interpretation](#)
- [1.7 Study Questions](#)
- [1.8 Suggested Answers](#)
- [1.9 Supplementary Reading List](#)

The Nature of Law

“What is law?” rings as a clear, simple, straightforward question. Were the answer so. The meaning of “law” is found in its different uses at different times in different contexts. Law can be seen as a system of rigid rules made by elected bodies or the courts, a form of order (not quite regimented, but almost), and a collection of prohibitions of what should not be done and commands of the opposite. More important, though, is the realization that law is but one component of our entire legal system. It cannot be studied in isolation from the other components of that system.

The legal system operates through a process in order to govern and control our conduct and our businesses, and in order to promote what the government of the day considers to be in the best interests of the nation and/or province. The legal system is the means by which we resolve disputes in some semblance of an orderly and peaceful fashion. Whether you like the result is not a factor. To understand the Canadian legal system and its elements, you have to understand the legal process.

It is important to realize that the legal process, and even the legal system, does not and cannot exist in isolation. It is part of a wider collection of processes and systems that form the foundation of our modern industrial society. These, individually and collectively, define Canadian society.

At the heart of the legal process are the roles of those in the legal system, the various institutions within it, and the judicial attitudes that make the system work. An individual’s attitudes, training, and experience affects the way in which they perform their respective roles, whether as a judge, a prosecutor, or a lawyer, and the way in which you, as a citizen, view the law and the legal system. Aren’t judges, prosecutors, and lawyers supposed to be above having attitudes? Aren’t they, especially the judges, supposed to be aloof from the rest of society? In the Additional Readings are selected reported decisions of courts of law, which contain only the judgment made by the court with respect to the facts and legal arguments presented to it by the opposing parties. The judgment has to be viewed realistically, as a reflection of the judge’s

attitudes toward what constitutes public policy, morality, fairness, political correctness, politics, and the economic conditions of the day. Some, or all, of these factors form an unstated foundation on which many judicial decisions are based.

There is one word not mentioned yet: justice. The term will be found in the Additional Readings from time to time when referring to a superior court judge, because those appointed to the likes of the Court of Queen's Bench, the Court of Appeal, or the Supreme Court of Canada are referred to as "Mr. Justice" or "Madam Justice," as the case may be. The word is also a synonym for concepts like fairness, equity, honesty and integrity, law, and legality. For many, though, the word "justice" means something else: it means revenge, satisfaction, or the vindication of the rightness of one's position. The law is not about that kind of justice, nor is our legal system. That kind of justice cannot be found in any court.



[SALS - Home](#) ▶ [LGST331](#) ▶ [Books](#) ▶ **Unit 1 - Foundations**

◀ Jump to... ▶

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