OBJECTIVES AND COURSE DESCRIPTION

The law of evidence provides the parameters for determining facts within the adjudicative process, and thus the manner in which the adjudicative process defines truth. These facts are the basis of findings of liability in civil and criminal proceedings, and rulings by administrative tribunals. Counsel must have an informed appreciation of the law of evidence, so that they can advise clients with respect to preserving evidence in anticipation of litigation and criminal proceedings, and properly use that evidence in subsequent proceedings.

Or, to put it another way, in the classroom when students learn legal rules and principles, and apply them to facts, those facts are ‘given’. Outside the classroom, facts must be ‘determined’. But how are facts determined? How should they be determined? This course deals with these foundational questions. Even if one plans never to step inside a courtroom or appear before an administrative tribunal, knowledge of the principles of evidence law is critical to understanding the legal system.

The objectives of this course are:

1. To introduce the substantive law of evidence and consider how the law of evidence is applied in practice;
2. To understand the strengths and weaknesses of different types of evidence;
3. To identify principles of fairness and conceptualizations of justice underlying the law of evidence; and
4. To explore issues of ethical responsibility related to finding, preserving and using evidence.

METHODOLOGY

Instruction is comprised of lectures, skill development exercises and class discussion.

EXPECTED EVALUATION METHODOLOGY

Students may write a final examination worth 100%, or elect a combination of final examination and short paper(s).

February 7, 2019