



education

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SUBJECT GUIDELINES

LAW OF PROCEDURES AND EVIDENCE

NQF Level 4

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LAW OF PROCEDURES AND EVIDENCE - LEVEL 4

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INTRODUCTION

A. What is Law of Procedures and Evidence about?

For anybody to be employed in the Criminal Justice System, a basic knowledge of the laws of our country is essential. This subject will enable the student to recognize the key principles of the law of procedure and evidence and other legal rules of the country. In the course of delivery of Law of Procedures and Evidence, the aim would be to identify, analyse and interpret the different principles and procedures of the South African law of procedure and evidence, in other words, how should these procedures be implemented. As this might be the student's first introduction to the law of procedure and evidence, the subject will introduce the principles and procedures prior to and during the adjudication of the criminal and the crime committed.

B. Why is Law of Procedures and Evidence important in the Safety in Society programme?

All the role players in the Criminal Justice System work on a daily basis with criminals and crimes in the execution of their duties as criminal justice officials. There is a relationship between the law of procedure and evidence and Police Practice, Criminology, Criminal Justice and Governance. As a result of the high crime rate in South Africa, criminal justice officials need to have a basic knowledge of law of procedure and evidence in order to combat and adjudicate crime.

C. The link between Law of Procedures and Evidence Learning outcomes and the Critical and Developmental Outcomes

After completion of Law of Procedures and Evidence, the student will have a basic knowledge of some principles and processes of the law of procedure and evidence. This will enable them to understand how the relevant laws of our country operate. There is a specific link between the law of procedure and evidence and the way members of policing agencies and judiciary perform their duties.

D. Factors that contribute to achieving Law of Procedures and Evidence Learning Outcomes

Students should have a basic awareness of the manifestations and resolution of the crime problem. An interest in the law of procedure and evidence and how it empowers and assists criminal justice officers is a basic necessity to be successful in this subject. After completion of this subject, students will have the ability to name and explain the basic principles and processes embedded in the law of procedure and evidence.

1 DURATION AND TUITION TIME

This is a one-year instructional programme comprising 200 teaching and learning hours. The subject may be offered on a part-time basis provided the student meets all the assessment requirements.

Students with special education needs (LSEN) must be catered for in a way that eliminates barriers to learning.

2 SUBJECT LEVEL FOCUS

Criminal Justice officials must have more than just a basic knowledge of the laws of our country. They must also know how these laws are implemented in the South African society. This subject will enable students to recognise the key principles of the law of procedure and evidence and other legal rules of the country. In the course of delivery of this subject the aim would be to identify, analyse and interpret the different principles and procedures of the South African law of procedure and evidence, in other words, how these procedures should be implemented. As this might be the student's first introduction to the law of procedure and evidence, delivery of this subject will introduce the principles and procedures prior to and during the adjudication of the criminal and the crime committed.

3 ASSESSMENT REQUIREMENTS

3.1 Internal assessment (50 percent)

1.1.1 Theoretical component

The theoretical component forms 40 percent of the internal assessment mark.

Internal assessment of the theoretical component in Law of Procedures and Evidence (Level 4) takes the form of observation, class questions, group work, informal group competitions with rewards, individual discussions with students, class, topic and semester tests and internal examinations. Lecturers can observe students when marking exercises from the previous day and asking class questions.

Assignments, case studies and tests can be completed at the end of a topic. Tests and internal examinations must form part of the internal assessment.

1.1.2 Practical component

The practical component forms 60 percent of the internal assessment mark.

Practical components include applications and exercises. All practical components must be indicated in a Portfolio of Evidence (PoE).

Internal assessment of the practical component in Law of Procedures and Evidence Level 4 takes the form of assignments, practical exercises, case studies and practical examinations in a simulated business environment. Students may complete practical exercises daily. Assignments and case studies can be completed at the end of a topic. Practical examinations can form part of internal practical assessment.

- **Some examples of practical assessments include, but are not limited to:**

- A. Presentations (lectures, demonstrations, group discussions and activities, practical work, observation, role-play, independent activity, synthesis and evaluation)
- B. Exhibitions by students
- C. Visits undertaken by students based on a structured assignment task
- D. Research
- E. Task performance in a "Structured Environment"

• **Definition of the term “Structured Environment”**

For the purposes of assessment, “Structured Environment” refers to a simulated workplace or workshop environment. Activities in the simulated workplace or environment must be documented in a logbook with a clear listing of the competencies to be assessed. The following information must be contained in the logbook:

- Nature of department or environment in which practical component was achieved
- Learning Outcomes
- Activities in the environment with which to achieve the Learning Outcomes
- Time spent on activities
- Signature of facilitator or supervisor and student

For the logbook to be regarded as valid evidence, it must be signed by an officially assigned supervisor.

• **Evidence in practical assessments**

All evidence pertaining to evaluation of practical work must be reflected in the student’s Portfolio of Evidence (PoE). The assessment instruments used for the purpose of conducting these assessments must be part of the evidence contained in the PoE.

1.1.3 Processing of internal assessment mark for the year

A year mark out of 100 is calculated by adding the marks of the theoretical component and the practical component of the internal continuous assessment (ICASS).

1.1.4 Moderation of internal assessment mark

Internal assessment is subjected to internal and external moderation procedures as set out in the *National Examinations Policy for FET College Programmes*.

1.2 External assessment (50 percent)

A national examination is conducted annually in October or November by means of a paper(s) set and moderated externally. A practical component will also be assessed.

External assessment details and procedures are set out in the Assessment Guidelines: Law of Procedures and Evidence (Level 4)

4 WEIGHTED VALUES OF TOPICS

TOPICS	WEIGHTED VALUE
1. General principles of the Law of Criminal Procedure	10%
2. The accused and his/her presence as party in court	10%
3. The legal principles of arrest	10%
4. The procedures after arrest	10%
5. The procedures of search and seizure	10%
6. The procedures regarding bail	10%
7. The procedures during trial	10%
8. The procedures during sentence and general principles regarding sentencing	10%
9. The appeal and review of sentence procedures	10%
10. The general principles of the Law of Evidence	10%
TOTAL	100

5 CALCULATION OF FINAL MARK

Internal assessment mark: Student’s mark/100 x 50 = a mark out of 50 (a)

Examination mark: Student’s mark/100 x 50 = a mark out of 50 (b)

Final mark: (a) + (b) = a mark out of 100

All marks are systematically processed and accurately recorded to be available as hard copy evidence for, amongst others, reporting, moderation and verification purposes.

6 PASS REQUIREMENTS

A student must obtain at least 70 percent to achieve a pass in this subject.

7 SUBJECT AND LEARNING OUTCOMES

On completion of Law of Procedure and Evidence Level 4, the student should have covered the following topics:

- Topic 1: General principles of the Law of Criminal Procedure
- Topic 2: The accused and his/her presence as party in court
- Topic 3: The legal principles of arrest
- Topic 4: The procedures after arrest
- Topic 5: The procedures of search and seizure
- Topic 6: The procedures regarding bail
- Topic 7: The procedures during trial
- Topic 8: The procedures during sentence and general principles regarding sentencing
- Topic 9: The appeal and review of sentence procedures
- Topic 10: The general principles of the Law of Evidence

7.1 Topic 1: General principles of the Law of Criminal Procedure

7.1.1 Subject Outcome 1: Name and explain the general principles of the Law of Criminal Procedure.

Learning Outcomes:

The student should be able to:

- Name the general principles of the Law of Criminal Procedure with examples.
- Discuss related principles of the Bill of Rights and the Law of Criminal Procedure with examples.

7.2 Topic 2: The accused and his/her presence as party in court

7.2.1 Subject Outcome 2: Explain the accused and his/her presence as party in court.

Learning Outcomes:

The student should be able to:

- Explain the reasons for the accused to be present in court, with examples.
- Explain the exceptions to the rule, with examples.

7.3 Topic 3: The legal principles of arrest

7.3.1 Subject Outcome 3: Explain the legal principles of arrest.

Learning Outcomes:

The student should be able to:

- Explain and give examples of arrest with a warrant.
- Explain and give examples of arrest without a warrant.
- Explain the procedures regarding resisting arrest.
- Explain the procedures regarding the escape from lawful custody.

7.4 Topic 4: The procedures after arrest

7.4.1 Subject Outcome 4: Name and explain the procedures after arrest.

Learning Outcomes:

The student should be able to:

- Explain the various procedures after arrest.
- Explain the importance of the forty-eight hour procedure.

7.5 Topic 5: The procedures of search and seizure

7.5.1 Subject Outcome 5: Explain the procedures of search and seizure.

Learning Outcomes:

The student should be able to:

- List and explain with examples the articles subject to seizure.
- Explain the procedures governing seizure under search warrant.
- Explain the procedures governing seizure without a warrant.
- Explain the procedures governing searching of an arrested person and seizure.
- Explain the procedures governing search by the occupier of premises.
- Explain the procedures governing the use of force in order to search.
- Explain the general requirement of propriety in respect of searching.
- Explain with examples wrongful search.

7.6 Topic 6: The procedures regarding bail

7.6.1 Subject Outcome 6: Explain the procedures regarding bail.

Learning Outcomes:

The student should be able to:

- Explain the grounds for granting bail with examples.
- Explain with examples the procedures for other forms of release.

7.7 Topic 7: The procedures during trial

7.7.1 Subject Outcome 7: Explain the procedures during trial.

Learning Outcomes:

The student should be able to:

- Name and explain the structure of the courts.
- Discuss with examples the principles of impartiality and fairness.
- Discuss with examples the principles of impartiality and courtesy.
- Discuss with examples the principles of the *audi alteram partem* (let the other side also be heard)-rule.
- Discuss with examples the principles of judge only on evidence with reference to the oath.
- Discuss with examples the principles of fairness towards the accused.
- Explain the role of the mental state of the accused.
- Explain the principles of the state's case.
- Explain the procedures of acquittal of the accused on conclusion of the state's case.
- Explain the principles of the case for the defence.
- Explain the role of the witness for the defence.

7.8 Topic 8: The procedures during sentence and general principles with regard to sentencing

7.8.1 Subject Outcome 8: Explain the procedures during sentence and general principles regarding sentencing.

Learning Outcomes:

The student should be able to:

- Explain with examples the discretion when imposing sentence.
- Explain with examples the general principles of sentencing.
- Explain the information required before sentencing.
- List and explain the forms of sentence that can be imposed.

7.9 Topic 9: The appeal and review of sentence procedures

7.9.1 Subject Outcome 9: Explain the appeal and review of sentences procedures with examples.

Learning Outcomes:

The student should be able to:

- Discuss the procedures governing appeals.
- Discuss the procedures governing reviews.
- Discuss the procedures governing clemency, indemnification and full pardon.

7.10. Topic 10: The general principles of the Law of Evidence

7.10.1 Subject Outcome 1: Explain the general principles of the Law of Evidence with examples.

Learning Outcomes:

The student should be able to:

- Give an overview of the field of study of the Law of Evidence.
- Discuss with examples the forms of evidence.
- Discuss the requirements of confessions.
- Discuss the requirements of admissions.
- Discuss with examples the principles of privilege.
- Discuss with examples the principles of the onus of proof.

8 RESOURCE NEEDS FOR THE TEACHING OF LAW OF PROCEDURES AND EVIDENCE - LEVEL 4

8.1 Physical resources

Classroom equipped with didactical requirements (e.g. writing board, overhead projector)

8.2 Human resources

The lecturer should ideally be a person with the relevant qualification. Practical experience in the field of the criminal justice is a recommendation.

8.3 Other resources

- Arrange for the attendance of a court hearing.
- Visit a police station and observe how the police operate in the client service centre when they take statements from complainants.
- Visit a Correctional Facility and liaise with Commanding Officer.
- Interview a Parole Officer.
- Find newspaper clippings which contains reports on crimes committed and court proceedings. Discuss these reports and proceedings with students
- Read and discuss a decided case.(S v Zinn)
- Simulate a mock court in the class room and allocate specific functions or roles to students.