

Business Law

Exam Information	Description
Exam number 240 Items 55 National Career Cluster Business Management & Administration Certification available Yes	The Business Law industry certification exam assesses learners on their understanding of the law as it relates to them currently and its implications for their future lives and the lives of their family and friends. It also evaluates their grasp of basic legal vocabulary, the court system at local, state, and national levels, contract law, their rights and responsibilities as citizens, utilization of financial transactions, employment and agency relationships, and the regulations governing different types of business organizations.

Exam Blueprint and Performance Skills

Standard	Percentage of exam score
1. Origins Of Law	9%
2. The Court System	11%
3. Procedural Law	14%
4. Criminal And Tort Law	23%
5. Contract Law	23%
6. Consumer Laws	12%
7. Employment Law	4%
8. Protecting Business Assets	5%

*Includes performance skill evaluation

Standard 1 - Origins Of Law

Candidates will analyze the relationship between ethics and the law and explain the origin of today's law.

Objective 1 Identify unethical conduct as behavior that conflicts with society's values but isn't necessarily illegal and illegal conduct as conduct that disobeys society's laws and has legal penalties for the disobedience of the law.

1. Compare various ethical theories and explain their influence on the creation of today's laws, including:
 - a. Ethics: Moral principles that govern a person's behavior or the conduct of an activity.
 - b. The Golden Rule: The ethical principle of treating others as one wants to be treated.
 - c. The Greatest Good Principle: A theory that promotes the greatest amount of good for the greatest number of people.
 - d. Duty-based Ethics: Seen as a series of rules which it is our moral duty to follow.

Objective 2 Describe both the state and federal constitution's impact on laws. Identify sources of today's law:

1. Common law: Part of English law that is derived from judicial precedent rather than statutes. Adopted and modified separately by the different states of the US and by the federal government.
2. Statutory law: Statutory law consists of the laws passed by the legislative bodies.
3. Court decisions/Case law: Court-made decisions rather than law based on constitutions, statutes, or regulations.
4. Administrative law: (regulations) The body of law created by specialized agencies and departments of the government.
 - a. FDA, OSHA, FCC, EPA

Objective 3 Discuss the Constitution including the Bill of Rights as it relates to business, such as in commercial speech.

1. Commercial Speech doctrine: False or misleading advertising, as well as advertising of unlawful goods, receives no 1st Amendment protection.
2. Cover the following amendments from the Bill of Rights
 - a. **Amendment 1:** Freedom of Speech
 - b. **Amendment 5:** Due process of law
 - c. **Due Process:** Right to a grand jury, no double jeopardy, no self-incrimination, the right to due process.
 - d. **Amendment 6:** Additional protections for the accused
 - e. **Amendment 7:** Right to a jury trial

Optional: Standard performance evaluations on the final page of this document

Standard 2 - The Court System

Candidates will be able to explain the role and function of the court system on the local, state, and national levels.

Objective 1 Explain the structure and function of the federal and state court systems.

1. Federal Courts: District, Appellate, Supreme Court
2. State Courts: Justice/Trial, District, Courts of Appeal, State Supreme Court, Juvenile Court
3. Jurisdiction: A court's power to hear a case and to make a judgment.

Objective 2 Identify the types of cases heard in each of the federal and state courts and the difference between original and appellate jurisdiction.

1. Federal Cases heard involve:
 - a. The Constitution
 - b. Laws passed by Congress
 - c. Patent and Copyright Cases
 - d. Bankruptcy Cases
 - e. Cases involving citizens of different states greater than \$75,000
 - f. Original Jurisdiction: The authority of a court to hear a case for the first time.
 - g. Appellate Jurisdiction: The authority of a higher court to review a lower court's decision. ○ No new evidence is required to reach a verdict
 - h. Judicial Review - The power of the Supreme Court to determine whether laws are in accordance with the constitution.
 - i. Precedent - Once a court has ruled in favor of an individual case, that case becomes part of a family of cases that support similar cases in the future and establishes a precedent. (When lower courts must follow the decisions of an upper court)

Objective 3 Compare and contrast the juvenile and adult court systems.

Optional: Standard performance evaluations on the final page of this document

Standard 3 - Procedural Law

Candidates will understand the important role of procedural law in our legal system.

Objective 1 Explain the advantages and disadvantages of Alternate Dispute Resolution methods as a procedure for settling disputes outside of the courtroom including the following;

1. Negotiation: A non-binding attempt to reach an agreement on matters in a dispute through spokespersons, often an attorney or a 3rd party.
2. Mediation: Settling a dispute through non-binding, active participation of a third party (mediator) who works to find points of agreement and make those in conflict agree on a fair result.

3. Arbitration: (Binding or Non-Binding) A private trial before a hired judge. May be binding or non-binding. Litigation: The process of taking a case to court
4. Litigation: The process of taking a case to court

Objective 2 Identify the various parties involved in a court trial (judge, attorneys, plaintiff/prosecutor, defendant, juries (petit and grand), paralegal, and court reporter)

Objective 3 Compare and contrast the steps in a civil lawsuit with the steps in a criminal prosecution. Determine the difference between the burden of proof in civil cases as the preponderance of the evidence and criminal cases as beyond a reasonable doubt.

Steps in a Civil Lawsuit

1. Complaint a. Answer
 2. Methods of Discovery a. Depositions b. Requests for Admissions c. Mental/Physical Examinations d. Interrogatories
 3. Pretrial Hearing
 4. Trial
 5. Judgment
- Steps in a Criminal Lawsuit
6. Grand Jury (Federal level in Utah)
 7. Arrest
 8. Arraignment a. (Bail is Set)
 9. Jury Selection - Voir Dire
 10. Trial
 11. Verdict/Sentence



Objective 4 Understand the Statute of Limitations as the maximum time after an event when legal proceedings may be filed. It relates to both criminal and civil law.

Optional: Standard performance evaluations on the final page of this document

Standard 4 - Criminal and Tort Law

Candidates will demonstrate an understanding of criminal and civil law as related to business.

Objective 1 Define and identify the different categories of Business Crimes

Business Crimes

1. Felony: A crime sufficiently serious to be punishable by death or a term in state or federal prison, as distinguished from a misdemeanor which is only punishable by confinement to county or local jail and/or a fine.
2. Misdemeanor: A lesser crime punishable by a fine and/or county jail time for up to one year.
3. Infraction: Infractions are also not punishable by jail time.

Penalties

1. Restitution: The returning to the proper owner property or the monetary value of loss. Sometimes restitution is made part of a judgment in negligence and/or contract cases.
2. Fine: A monetary charge imposed upon individuals who have been convicted of a crime or a lesser offense.
3. Imprisonment: Being detained in a secured facility for a certain period of time.

Objective 2 Identify the different types of business crimes as traditional and cybercrimes. Define the following with examples for each category.

Traditional Business Crimes

1. Include: Forgery, Embezzlement, Fraud, Larceny by False Pretenses, Perjury, Conspiracy, Extortion, and Bribery.
2. Emerging Cyber Crimes
3. Such as Phishing, Ransomware, Identity Theft, Cyberpiracy, Cyber Vandalism

Objective 3 Understand defenses to criminal charges (e.g., insanity and entrapment).

Objective 4 Identify where actions or failure to act falls under business tort law, including negligence, strict liability, defamation, and invasion of privacy.

1. Negligence

- a. **Duty of Care:** A requirement that a person act (or not act) toward others and the public with the watchfulness, attention, caution, and prudence that a reasonable person in the circumstances would use.
- b. **Breach of Duty:** A failure to do one's duty
- c. **Proximate Cause:** A causal link between the breach of duty and damages suffered.
- d. **Actual Damage:** Any harm done to a person by the acts or omissions of another. Injury may include physical injury, monetary damages, as well as damage to reputation or dignity or loss of a legal right.

2. **Strict Products Liability:** Automatic responsibility (without having to prove negligence) for damages due to dangerous products, such as explosives, wild animals, poisonous snakes, or assault weapons.
3. **Defamation:** The act of making untrue statements about another that causes damage.
 - a. Libel: A published false statement.
 - b. Slander: An oral false statement.

Objective 5 Identify and define the most common defenses in a civil action in cases of negligence.

1. **Assumption of Risk:** Taking a chance in a potentially dangerous situation.
2. **Contributory Negligence:** The doctrine that if damages were caused in part by the plaintiff's actions, the injured party would not be entitled to collect any damages (money) from the defendant.
3. **Comparative Negligence:** A rule of law applied in accident cases to determine responsibility and damages based on the level of negligence of every party.

Objective 6 Describe the remedies available in civil law.

1. **Punitive:** Damages awarded in a lawsuit as a punishment and example to others for malicious, evil, or particularly fraudulent acts.
2. **Compensatory:** Damages recovered in payment for actual injury or economic loss
3. **Injunction:** A writ (order) issued by a court ordering someone to act or prohibit an action.

Optional: Standard performance evaluations on the final page of this document

Standard 5 - Contract Law

Candidates will demonstrate an understanding of contract law including the elements and legal considerations of a contract.

Objective 1 Describe how to form and discharge a contract.

1. **Offer:** A specific proposal to enter into an agreement with another.
2. **Acceptance:** Expression of willingness to be bound, such as a handshake, signature, or "yes."
3. **Genuine Agreement:** A "meeting of the minds" as to the terms of the contract.
4. **Consideration:** A "bargained for" promise, such as money, property, services, or agreement not to act.
5. **Capacity:** The competence to enter into an agreement. Issues include: mental competency, intoxication, language barriers, and minors.
6. **Legality:** The consideration must be legally enforceable.

Objective 2 Identify the classifications of contracts.

1. **Express:** An exchange of promises in which the terms by which the parties agree to be bound are declared either orally or in writing, or a combination of both, at the time it is made.
2. **Implied:** A contract that is found to exist even when its terms are not explicitly stated.
3. **Bilateral:** A contract in which both parties exchange promises to perform.
4. **Unilateral:** A contract created by an offer that can only be accepted by performance.
5. **Verbal:** Agreed to via spoken communication, but not written down
6. **Written:** An agreement between two parties that can be printed or digital.

Objective 3 Understand and describe the different ways a contract can be discharged or terminated.

1. **Performance:** The parties perform their duties. This is the primary way contracts are discharged.
2. **Assignment:** Transferring of rights and/or benefits under a contract.
3. **Delegation:** Transfers the duty for performing a particular contractual obligation to another party.
4. **Rescission:** The parties agree to walk away as if the contract never occurred, including any consideration exchanged is returned to each party.
5. **Accord and Satisfaction:** The parties accept new consideration to discharge a preexisting duty between them and the subsequent performance (satisfaction) of that agreement.
6. **Novation:** An agreement to substitute a new party for an existing one.
7. **Impossibility of Performance:** Changes that make the contract impossible to perform, such as the death of a party or the destruction of subject matter.

Objective 4 Define breach of contract, legal remedies, and defenses to a claim of breach.

1. **Breach of Contract:** When one party in a contract fails to deliver according to the terms of the agreement.
2. **Legal Remedies:** Court enforcement of a legal right
 - a. **Damages:** The sum of money imposed for a breach of some duty or violation of a contractual right. There are two types of damages: compensatory and punitive.
 - b. **Specific Performance:** The remedy for breach that requires a party to fully perform according to the terms of the contract.
 - c. **Restitution:** Returning to the proper owner property or the monetary value of loss.
3. **Defenses to Breach of Contract**
 - a. **Fraud:** When a person actively misrepresents or conceals a material fact.
 - b. **Non-disclosure:** Failure to reveal or disclose information
 - c. **Negligent Misrepresentation:** An unintentional false statement of a material fact made without reasonable care.
 - d. **Mistake:** An incorrect belief, at contracting, that certain facts are true. May be bi-lateral or unilateral.
 - e. **Duress:** The act of using threats or psychological pressure to force someone to behave in a way that is contrary to their wishes.
 - f. **Undue Influence:** When a more powerful party exerts its influence over a less powerful party in order to achieve its desired outcome.

Objective 5 Identify contracts that should be in writing under the Statute of Frauds.

1. Marriage
2. Year
3. Land
4. Executor
5. Goods over \$500
6. Surety/Guarantor

Optional: Standard performance evaluations on the final page of this document

Standard 6 - Consumer Laws

Candidates will understand and compare and contrast sales and consumer laws to better understand the role of consumer rights.

Objective 1 Describe and differentiate the following consumer laws:

1. **Uniform Commercial Code (UCC):** A set of laws intended to govern commercial transactions involving the sales of goods throughout the U.S.
 - a. **Shipping contract :** ownership of goods and risk of loss passes at the point of shipment.
 - b. **Destination contract:** Ownership of goods and risk of loss passes at the destination.
2. **Securities and Exchange Act of 1934:** Enacted to govern securities transactions on the secondary market to ensure an environment of fairness and investor confidence. Enforced by the SEC.

Objective 2 Differentiate and define the types of property covered in consumer laws.

1. **Goods:** All things that are movable at the time of entering the contract, including unborn animals and growing crops.
2. **Services:** Any intangible action provided to meet consumers' expectations, such as medical services, legal aid services, architectural services, and automobile services.
3. **Real Property:** Land, water, and minerals in the earth; airspace above the land; and things permanently attached to the land.

Objective 3 Explain the two types of warranties for sale of goods (expressed and implied).

1. **Expressed Warranty:** An agreement by a seller to provide a remedy for a faulty product, component, or service within a specified time period after it was purchased.
2. **Implied Warranty:** A warranty implied by law for all products that the product is fit (meets expectations) for either a specific purpose (warranty of fitness) or for the general purposes of the particular good (warranty of merchantability).

Objective 4 Identify and explain consumer protection laws like the Consumer Product Safety Act and define unfair and deceptive practices.

1. **Consumer Product Safety Act:** CPSC works to reduce the risk of injuries and deaths from consumer products by issuing and enforcing mandatory standards; banning consumer products

if no standard would adequately protect the public and obtaining the recall of products and arranging for their repair, replacement, or a refund.

2. **Bait and Switch:** When a seller creates an attractive, but disingenuous offer to sell a particular service or product that they do not actually intend to ever sell, including digital fraud.
3. **Price Fixing:** An agreement between business competitors or between manufacturers, wholesalers, and retailers to raise, fix, or otherwise maintain prices.
4. **The Cooling-Off Rule:** A Federal Trade Commission (FTC) rule that allows you to cancel a contract within a few days (usually three days) after signing it.

Optional: Standard performance evaluations on the final page of this document

Standard 7 - Employment Law

Candidates will analyze the importance of employment law as it relates to the conduct of business.

Objective 1 Identify and define the distinction between each of the following employment opportunities.

1. **Employee:** An individual who works under the supervision or control of an employer.
2. **Independent Contractor:** An individual who works independently of an employer. A non-employee.
3. **Employment at Will:** An employment agreement that may be terminated either by employer or employee at any time, with or without justification.

Objective 2 Discuss the importance of employee rights during the following employment scenarios.

1. **Job Interviews:** Address what can/cannot be asked during the interview, such as religion, age, and medical issues.
2. **Drug Testing:** Discuss typical employment issues, such as random vs. reasonable suspicion testing and written policies.
3. **Background Checks:** Discuss the scope of background checks, such as employment history, education, financial, DMV, criminal records, and social media use.
4. **Laws Affecting Minors:** Address the Fair Labor Standards Act as it applies to work hours, overtime,
5. **Justified/Unjustified Discrimination Laws:** Include the protected classes under the Equal Employment Opportunity Act and the Americans with Disabilities Act.
6. **Safety Measures:** Discuss generally the employer's responsibilities under the Occupational Safety and Health Act.

Optional: Standard performance evaluations on the final page of this document

Standard 8 - Protecting Business Assets

Candidates will understand the importance of protecting your business and personal assets.

Objective 1 Identify the liability protection provided by the different forms of business organizations

1. **Sole Proprietorship:** A sole proprietorship is the simplest and most common structure chosen to start a business. It is owned and run by one individual with no distinction between the business and you, the owner. The owner is entitled to all profits and is responsible for all your business's debts, losses and liabilities.
2. **Partnership:** is an arrangement between two or more people to oversee business operations and share its profits and liabilities.
3. **Corporation:** is legally a separate and distinct entity from its owners. Corporations possess many of the same legal rights and responsibilities as individuals. It has limited liability, which means that its shareholders are not personally responsible for the company's debts. It may be created by an individual or a group of people with a shared goal.
4. **Limited Liability Company (LLC):** is a business structure in the U.S. that protects its owners from personal responsibility for its debts or liabilities. Limited liability companies are hybrid entities that combine the characteristics of a corporation with those of a partnership or sole proprietorship.

Objective 2 Discuss the critical differences between the following methods of protecting creative and intellectual property.

1. **Copyright:** The exclusive legal right to reproduce, publish, sell, or distribute the matter and the form of something.
2. **Patent:** is a legal right to an invention given to a person or entity without interference from others who wish to replicate, use, or sell it
3. **Trademark:** The term trademark refers to a recognizable insignia, phrase, word, or symbol that denotes a specific product and legally differentiates it from all other products of its kind.
4. **Economic Espionage Act:** It makes the theft or misappropriation of trade secrets a criminal offense. It is unique in that it is the first federal law to broadly define and severely punish such misappropriation and theft.

Optional: Standard performance evaluations on the final page of this document

Performance Skills Evaluation

Exam name: Business Law

Candidate Name: _____

Performance assessments may be completed and evaluated any time before the certification is issued. The following performance skills can be used in connection with the associated standards and exam. The evaluator will function as the subject matter expert to determine if the candidate meets the skills requirements with a Yes/No for passing.

Standard 1 – Origins of Law

- Candidates will demonstrate understanding of the origins of business law through exploring one of the following activities.
 - Have candidates evaluate an ethical scenario from either the FBLA Ethics case study for the year or the DECA Business Law & Ethics Team decision-making role play. **OR**
 - Demonstrate how they would respond to an ethical dilemma using a case study or role play from DECA or FBLA's ethical competition.

Pass:

Standard 2 – The Court Systems

- Candidates will demonstrate an understanding of the court systems through on of the following activities.
 - Analyze supreme court decisions relating to current social and legal issues and create a presentation to show competency of the judicial review process.
 - Analyze a resolved, current (within 10 years) business law case from a source other than a textbook. Create a report that summarizes the case.
 - Create an infographic to illustrate a court system. Federal, State, or Juvenile
 - Examine a case that has been decided, create a case brief on the decision made, and identify the rule of law and analysis used to arrive at the decision. (FIRAC - Facts, Rule of Law, Issue, Analysis/Application, Conclusion)

Pass:

Standard 3 –Procedural Law

- Participate in a mock trial by doing the following
 - Actively participate in a mock trial by preparing for and acting your assigned part.
 - Understand the setup and expectations of behavior in a courtroom.
 - Understand the procedures of a trial (e.g. opening/closing arguments, objections, examination, judgment/verdict).

Pass:

Standard 5 – Contract Law

Pass:

- Candidates will analyze a contract or a contractual relationship.
 - Are all the elements of a contract present?
 - Do any potential defenses to the contract exist?
 - Does the Statute of Frauds require the contract to be in writing

Standard 7 – Employment Law

- Candidates will complete one of the consumer or employment performance skills.
 - Explore a recent product recall that was issued by the CPSC. Give a brief description of the product and the actual injuries from the products. **OR**
 - Conduct a mock job interview. Design questions that stay within the legal rights of potential employees.

Pass:

Evaluator Name:

Date: