



This is the 1<sup>st</sup> affidavit  
of Tracy Tso in this case  
and was made on 16/Jan/2015

No. S149837  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

**TRINITY WESTERN UNIVERSITY and  
BRAYDEN VOLKENANT**

PETITIONERS

AND:

**THE LAW SOCIETY OF BRITISH COLUMBIA**

RESPONDENT

**AFFIDAVIT #1 OF TRACY TSO**

I, TRACY TSO, of 1000 - 1199 West Hastings Street, Vancouver, British Columbia, SWEAR  
THAT:

1. I am employed as a legal assistant at the firm of Gall Legge Grant & Munroe LLP, 1000 - 1199 West Hastings Street, Vancouver, British Columbia, counsel for the Respondent the Law Society of British Columbia in the Supreme Court of British Columbia action number S149837, Vancouver Registry.
2. I have reviewed the file and the pleadings in the Supreme Court of British Columbia action number S149837, Vancouver Registry, and as such, I have personal knowledge of the facts and matters deposed to in this affidavit, save and except where they are stated to be made on information and belief, and where so stated, I believe them to be true.

3. On January 16, 2015, I was forwarded an email from Ms. Elin Sigurdson, counsel to the Petitioner Trevor James Loke in the Supreme Court of British Columbia action number S142908, Vancouver Registry, to Ms. Selina Gyawali, articulated student at Gall Legge Grant & Munroe LLP. This email contains instructions for how to access an internet site containing all but four of the affidavits filed by the Petitioner in the Supreme Court of British Columbia action number S142908, Vancouver Registry. A copy of the email is attached as **Exhibit "A"**.
4. On January 16, 2015, Ms. Sigurdson sent me an email attaching the remaining four affidavits filed by the Petitioner in the Supreme Court of British Columbia action number S142908, Vancouver Registry. In this email, Ms. Sigurdson confirmed that the affidavits she has provided to our office or directed us how to obtain are all of the affidavits filed by the Petitioner in the Supreme Court of British Columbia action number S142908, Vancouver Registry. A copy of the email is attached as **Exhibit "B"**.
5. Attached as **Exhibit "C"** is a copy of Affidavit #1 of Barry Adam made on April 2, 2014, in the Supreme Court of British Columbia action number S142908, Vancouver Registry.
6. Attached as **Exhibit "D"** is a copy of Affidavit #1 of Ellen Faulkner made on April 9, 2014, in the Supreme Court of British Columbia action number S142908, Vancouver Registry.
7. Attached as **Exhibit "E"** is a copy of Affidavit #1 of Catherine Taylor made on April 9, 2014, in the Supreme Court of British Columbia action number S142908, Vancouver Registry.
8. Attached as **Exhibit "F"** is a copy of Affidavit #1 of Elise Chenier made on April 14, 2014, in the Supreme Court of British Columbia action number S142908, Vancouver Registry.
9. Attached as **Exhibit "G"** is a copy of Affidavit #1 of Jill Bishop made on April 9, 2014, in the Supreme Court of British Columbia action number S142908, Vancouver Registry.

10. Attached as **Exhibit “H”** is a copy of Affidavit #1 of Mary Bryson made on April 10, 2014, in the Supreme Court of British Columbia action number S142908, Vancouver Registry.
11. Attached as **Exhibit “I”** is a copy of Affidavit #1 of Preston Parsons made on April 12, 2014, in the Supreme Court of British Columbia action number S142908, Vancouver Registry. The exhibits referred to in Affidavit #1 of Preston Parsons are not included.
12. Attached as **Exhibit “J”** is a copy of Affidavit #1 of Trevor James Loke made on April 11, 2014, in the Supreme Court of British Columbia action number S142908, Vancouver Registry. The exhibits referred to in Affidavit #1 of Trevor James Loke are not included.
13. Attached as **Exhibit “K”** is a copy of Affidavit #1 of Cheryl McKinnon made April 9, 2014, in the Supreme Court of British Columbia action number S142908, Vancouver Registry.
14. Attached as **Exhibit “L”** is a copy of Affidavit #1 of William Brent Cotter made May 27, 2014, in the Supreme Court of British Columbia action number S142908, Vancouver Registry.
15. Attached as **Exhibit “M”** is a copy of Affidavit #2 of Cheryl McKinnon made May 28, 2014, in the Supreme Court of British Columbia action number S142908, Vancouver Registry.
16. Attached as **Exhibit “N”** is a copy of Affidavit #1 of Charleen Kilian made May 29, 2014, in the Supreme Court of British Columbia action number S142908, Vancouver Registry.
17. Attached as **Exhibit “O”** is a copy of Affidavit #1 of Anne Macaulay made August 28, 2014, in the Supreme Court of British Columbia action number S142908, Vancouver Registry.

18. Attached as **Exhibit "P"** is a copy of Affidavit #2 of William Brent Cotter made August 28, 2014, in the Supreme Court of British Columbia action number S142908, Vancouver Registry.

SWORN BEFORE ME at )

on January 16<sup>th</sup>, 2015 )



A Commissioner for taking Affidavits for )  
British Columbia )

**LAUREN WIHAK**  
**GALL LEGGE GRANT & MUNROE LLP**  
Barristers & Solicitors  
Suite 1000-1199 West Hastings Street  
Vancouver, B.C. V6E 3T5  
Phone: 604-686-0011 Fax: 604-686-5101

  
**TRACY TSO**



## Selina Gyawali

**From:** Selina Gyawali  
**Sent:** Friday, January 16, 2015 8:58 AM  
**To:** Tracy Tso  
**Subject:** FW: TWU Record



Selina Gyawali  
Articled Student  
Gall Legge Grant & Munroe LLP  
T (604) 669-0011 ext 154  
F (604) 669-5101 M (778) 837-6737 [sgyawali@glgmlaw.com](mailto:sgyawali@glgmlaw.com)  
1000 – 1199 West Hastings Street, Vancouver BC V6E 3T5

This is Exhibit "A" referred to in the  
affidavit of Tracy Tso  
sworn before me at Vancouver  
this 16 day of January 2015

  
A Commissioner for taking Affidavits  
for British Columbia

NOTICE: This e-mail is confidential and may contain privileged information. If you are not an intended recipient, please delete this e-mail and notify us immediately. Any unauthorized use or disclosure is prohibited.

**From:** Elin Sigurdson [mailto:[ESigurdson@jfkllaw.ca](mailto:ESigurdson@jfkllaw.ca)]  
**Sent:** Tuesday, December 23, 2014 4:04 PM  
**To:** Selina Gyawali  
**Cc:** Sadie Penney  
**Subject:** TWU Record

Hi Selina,

Below are instructions for how to access the FTP site to download the materials filed in Loke v Minister & TWU.

All the best,  
Elin

**Step 1:** Click link: [ftp://\[redacted\]](ftp://[redacted])

**Step 2:** Enter in username & password:

User: [redacted]

Pass: [redacted]

Let me know if there are any problems. Thanks!

Elin R.S. Sigurdson  
JFK Law Corporation  
340 – 1122 Mainland Street  
Vancouver, BC V6B 5L1  
Office: 604.687.0549 x108  
Fax: 604.687.2696

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## Selina Gyawali

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**From:** Elin Sigurdson <ESigurdson@jfkllaw.ca>  
**Sent:** Friday, January 16, 2015 11:51 AM  
**To:** Tracy Tso; Selina Gyawali  
**Subject:** Loke v. Minister et al  
**Attachments:** Affidavit #2 William Brent Cotter s. Aug.28, 2014 f. Aug. 29, 2014.PDF; Filed Affidavit #1 of Cheryl Mckinnon File No. S-142908 d. April 14, 2014.PDF; FILED AFFIDAVIT NO. 1 OF WILLIAM BRENT COTTER f. May. 30, 2014.PDF.PDF; FILED AFFIDAVIT NO. 2 OF CHERYL MCKINNON f. May. 30, 2014.PDF.PDF

Tracy and Selina,

With the attached affidavits of William (Brent) Cotter and Cheryl MacKinnon, along with the materials we uploaded to our FTP site, you should have all of the affidavits we filed in the Petition of Mr. Loke.


Yours truly,

Elin R.S. Sigurdson  
JFK Law Corporation  
340 – 1122 Mainland Street  
Vancouver, BC V6B 5L1  
Office: 604.687.0549 x108  
Fax: 604.687.2696

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Visit our website at [www.jfkllaw.ca](http://www.jfkllaw.ca) for information about our firm and the services we provide.

This is Exhibit "B" referred to in the  
affidavit of Tracy Tso  
sworn before me at Vancouver  
this 16 day of January 2015  
  
A Commissioner for taking Affidavits  
for British Columbia



This is the 1<sup>st</sup> Affidavit  
of Barry Adam in this case  
and was made on 02/04/2014

No. S-142908  
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *CANADIAN CHARTER OF RIGHTS AND FREEDOMS*, THE  
*JUDICIAL REVIEW PROCEDURE ACT*, THE *DEGREE AUTHORIZATION ACT*, THE  
*HUMAN RIGHTS CODE* AND THE *TRINITY WESTERN UNIVERSITY ACT*

BETWEEN:

This is Exhibit "C" referred to in the  
affidavit of Tracy TSG  
sworn before me at Vancouver  
this 16 day of January 2015

TREVOR JAMES LOKE

PETITIONER

  
A Commissioner for taking Affidavits  
for British Columbia

- and -

BRITISH COLUMBIA (MINISTER OF ADVANCED EDUCATION)

RESPONDENT

AFFIDAVIT #1 OF BARRY ADAM

I, BARRY ADAM, Sociology Professor, of the City of Windsor, in the Province of Ontario, MAKE OATH AND SAY AS FOLLOWS:

1. I am a University Professor (a rank above full professor) at the Department of Sociology, Anthropology and Criminology, at the University of Windsor, located in Windsor, Ontario. I have taught there since 1976. At one point I was head of the Department of Sociology and Anthropology. I received my Master's Degree in Sociology from the University of Toronto in 1973 and my Ph.D. in Sociology at the University of Toronto in 1977. I am a Senior Scientist and Director of Prevention Research at the Ontario HIV Treatment Network. I specialize in the



study of: the dynamics of subordination and empowerment, the social status of lesbians and gay men, and HIV prevention and care. I have published four books and numerous scholarly articles and book chapters on these and related issues, and am a member of Canadian, American, and International sociological associations, as well as professional associations for the study of HIV. Attached to this Affidavit and marked as Exhibit "A" is a copy of my Curriculum Vitae which gives further details on the work that I have done.

2. I have taught courses in social institutions and social change, social problems, theories of sexuality, gay and lesbian studies, social deviance and conformity, and inter-group relations. In each of these courses I bring to bear and teach to students the recognition and nature of discrimination, *inter alia*, against gays and lesbians, and I teach them the scientific evidence that is available on the harms caused by exclusion and prejudice.

3. In 1995 I wrote a book entitled "The Rise of the Gay and Lesbian Movement", revised edition, which was selected as an Outstanding Book Published in 1987 on the Subject of Intolerance by the Gustavus Myers Center for the Study of Human Rights. I have written many papers that deal with discrimination against gays and lesbians. The subject of the exclusion of gays and lesbians and the serious harm that results has been an integral part of a good deal of the work that I have done and I bring to bear the knowledge that Sociology has to offer on that subject in the course of many of my own researches and writings. This kind of harm is an integral part of what I need to know in order to do the work that I do.

#### Question

4. I have been requested by the Petitioner in the above matter to provide my opinion on whether the Trinity Western University Community Covenant has the effect of excluding gay and lesbian people from attending Trinity Western University and if so whether this exclusion would cause harm to gays and lesbians. The statements in this Affidavit are based directly on

my extensive involvement in this area of research and scholarship, and are true to the best of my knowledge and belief.

5. I certify that I am aware of my duty to assist the court and not to be an advocate for any party; that I have made this Affidavit in conformity with this duty; and that if I am called to give oral or written testimony, that testimony will be given in conformity with this duty.

6. In the ensuing paragraphs, I outline types of harm caused by exclusion of gays and lesbians.

#### Current Social Science Perspectives on Exclusion

7. A good deal of current scholarship on prejudice and exclusion is being re-thought through the perspective of citizenship studies. Citizenship studies investigates how the state and law impede or facilitate the recognition of people in a nation as a moral equals and thus their inclusion in a particular human community. Saskia Sassen (2005), for example, examines how social and legal membership may at times be out of synch, creating instances where citizenship rights are compromised or disabled as when people may be legal citizens but be morally disqualified from exercising their rights or conversely may lack legal citizenship but would otherwise be seen as community members. Within this framework has emerged the study of sexual citizenship which investigates how sexuality is socially constructed as a ground for exclusion from, or claims to, citizenship rights and responsibilities in a number of arenas, such as marriage (Bell & Binnie 2000, Herdt & Kertzner 2006; Phelan 2001), military service (Conway 2004; Bell & Binnie 2000), reproduction and family formation (Berlant 1997; Plummer 2003), and representation (Berlant 1997; Richardson, 2000).

8. Psychologists have postulated *minority stress theory* as an explanation of the consequences of denial or exclusion from full citizenship. Having long observed that lesbian, gay, bisexual, and transgender people show elevated rates of depression, anxiety, suicidality, and substance abuse compared to the general population, a large body of research traces these conditions to various forms of discrimination and social exclusion such as sexual minority-specific victimization and a heightened sense of insecurity experienced in unsupportive or hostile social environments (Meyer 2012; Wight et al. 2012; Brewster et al. 2013; Burton et al. 2013; Feinstein, Goldfried & Davila 2013; Goldbach et al. 2013; Meyer 2013; Lea, de Wit & Reynolds 2014).

#### Language and Structural Constraints on Life Choices

9. As a medium of communication and as the way in which social structures and values are transmitted, language is critical to the reproduction of citizenship rights. For example, active campaigns of persecution have employed both structural constraints and legally segregated categories to restrict the choices and life opportunities for lesbian, bisexual, and gay people. Often the cessation of active oppression leaves in its wake segregated categories and legal terms which themselves reinforce old patterns of exclusion.

10. Educational institutions, churches, the mass media, the publishing industry, and other agents serve as conduits of cultural reconstitution by continually reproducing the language and symbolic universe of a society. The systematic selection of attributes of lesbian, gay, and bisexual people for public presentation by agents of cultural transmission constructs images that may rationalize their inferiorized status.

11. At the most basic level, cultural transmission is the practice of language. It is people speaking to one another, parents to children, individuals to peers. The accumulation of knowledge expressed in language transmits power over given reality, and officially propagated 'knowledge' demarcates the lives of those alien to its symbolic universe.



12. Inferiorized people such as lesbians, bisexuals, and gay men discover themselves as symbols that are manipulated in the transmission of the dominant culture. Cultural images of self, institutionalized by cultural agents, exist alien to their own experience and self-expression. Subordination then becomes inherent in labels that function as a medium of exclusion at the same time that it transmits value and respect to those it includes.

13. Awareness of the social production of words and symbols and their deployment through the power of law is easily lost. Language then becomes one-dimensional as values are equated with the term that communicates them: "The meaning of words is rigidly stabilized. Rational persuasion, persuasion to the opposite is all but precluded. The avenues of entrance are closed to the meaning of words and ideas other than the established one" (Marcuse 1969:96). One-dimension language thus cuts off reflection about the real meaning or purposes of words as the process of reflections ends where it started, in the given conditions and relations that constructed oppression to begin with.

14. It is often assumed that questions around the social and legal status of lesbian, bisexual, and gay people are a question of "sexuality," and that sexuality is a clearly "private" realm with no place in the public domain. Yet this chain of reasoning has several faulty links and disturbing implications. Confinement of (homo)sexuality to the "private" sphere entails a set of social implications that impose special disabilities on gay, bisexual, and lesbian people. The difficulty with the "private" category is the inequity in the language applied to heterosexuality and homosexuality. While heterosexuality is quickly distinguished from its "non-sexual" public manifestations, such as romance, courtship, marriage, and family—which are documented and celebrated in the arts, and institutionalized in the legal system—homosexuality is often not accorded the same amplitude. Same-sex courtship, romance, partnership, home-building, mutual support, and communication through the arts are not always allowed the same public manifestation, but rather are often subjected to the linguistic "squeeze" of the 'sexuality' category and thus consigned to the private. When both "public" and "private" spaces are subject to institutional surveillance, and same-sex relations are deemed to be disqualifications from

institutional or community participation, then lesbian, gay, and bisexual people are excluded from a large realm of citizenship.

15. A strict separation between “public” and “private” turns out to be virtually unattainable in practice. Apart from the emotional and psychological toll this strategy takes, staying in the closet can have serious ramifications, for example, in the workplace: “Men who try to avoid the issue of sexuality altogether find their productivity sapped in a different way. They can become isolated within their organizations, excluded from the social networks they need to do their jobs. They dodge intrusive, personal questions only to find themselves without mentors, advocates, and friends” (Woods & Lucas 1994:234).

16. When gay, lesbian, and bisexual people are identified with a private sexual activity, and subject to penalty for the expression of intimacy, a special range of social limitations are thereby imposed on them. This closet rule, which confines gay and lesbian lives to secrecy allows for the growth of a climate of fear in other aspects of life such as seeking employment, accessing state and commercial services, finding an apartment, or just being in the street. Failure to protect gay, lesbian, bisexual, and transgendered people in civil society leaves them vulnerable to various forms of social predation.

17. Exclusion from the public affirmation of relationship is a form of withholding access to the full exercise of citizenship rights in the public sphere. Exclusion from valued categories, or confinement to subordinate categories, reproduces moral hierarchies that provide warrant for a range of social disabilities.

18. Citizenship rights are *not* just about *not* being excluded from the public sphere, but are more positively about being able to participate fully in civil society. Gay and lesbian people are not unlike 19th century European Jews, the Kurds of contemporary Turkey, the Bahá'ís of Iran, or the aboriginal people until recent years in our own country, all of whom have had to deal with state campaigns to suppress their languages, traditions, cultural rites, and literatures. Being permitted to be Jewish only in secrecy, but subject to the withdrawal of public services or

educational advancement should one be found out, could never be considered equitable. Being permitted to speak one's own language only at home but not in public, or being prevented from building community institutions, such as community centres, newspapers, or archives, scarcely qualifies as equal participation in civil society. Similarly being restricted from affirming relationships and domestic life in the public sphere constitutes a curb on public recognition as a valid actor in civil society.

19. The question at hand is the kinds of limitations that may be acceptable to participation in civil society. The "separate but equal" doctrine advanced in the United States in the 19th century, and by the apartheid regime in South Africa in the 20th, claimed that limited access to public institutions was acceptable because different racial communities would be able to develop a full range of community institutions for themselves and did not need to avail themselves of institutions in the dominant society. This doctrine was belied by social realities. Permitting the denial of publically available services to some people and not others resulted not in equal development but in the reproduction and amplification of social inequalities and the virtual expulsion of large categories of people from participation in democratic institutions.

#### Context of Continuing Prejudice Against Lesbians and Gay Men

20. Among the last groups to be added to human rights legislation in Canadian jurisdictions, lesbians and gay men have lived under the protection extended by such policies for shorter periods of time than have other groups that are considered to be historically disadvantaged. As a consequence of this long-standing prejudice, the overall context of lesbian and gay life still reflects that historical disadvantage. Lesbian, bisexual and gay people still live in social and economic contexts characterized by lack of family support, vulnerability to harassment, violence, negative social attitudes, and diminished opportunities.

21. Lack of family support: Members of many groups exposed to social prejudice because of race, religion, ethnic origin, or similar characteristics can face that prejudice together with their families, provide each other with ongoing understanding and support, and help create bonds with

other members of those communities of interest. In contrast, lesbian, gay, and bisexual people are usually raised in families consisting of heterosexual persons. Isolated in the family unit often from an early age, they rarely experience a sense of mutual understanding from other members of their families around issues of sexuality, and thus enter life with less emotional and social support within the family and in relation to the family's connections with the outside community. As their lives unfold, they are often denied the level of support that heterosexual people routinely expect as they form long-term relationships, have children, and become active in lesbian or gay communities. Some who become parents raise children who are themselves the subject to homophobic views, or who themselves begin to express homophobic views at some points in their lives. Even in families whose members do not actively practise prejudice against lesbians and gay men, lack of open acceptance or understanding takes its toll on emotional security and self-esteem as lesbian, gay, and bisexual people form their own images of self in society.

22. Prejudice in schools: Despite official educational policies against prejudice and violence in schools, there is often little done to counter homophobic harassment through the curriculum or administrative action. Social attitudes are transmitted quickly among young people as they enter the educational system. Research on violence against lesbians and gay men shows that young men between the ages of 15 and 25 make up the largest category of perpetrators (Comstock 1991). Homophobic harassment, use of stereotyped insults, and violence in schools add to the sense of social disapproval that young lesbians and gays acquire as they move through the school system on their way into the larger community. Invalidation at the post-secondary level further contributes to a pattern of socially constricted citizenship rights and consequent sexual minority stress.

23. Vulnerability to suicide: Suicide, especially youth suicide, is higher among those who are or think they may be lesbian or gay than it is among those who identify as heterosexual. Because gay and lesbian youth often face a hostile environment, verbal and physical abuse, and rejection and isolation from their families and peers, they are significantly more likely than others to commit suicide (Rofes 1983; Cover 2012; Harris 2013; Mereish, O'Cleirigh & Bradford 2014). Recent research shows that educational institutions play a critical role in suicide risk. Educational institutions with explicit policies of not tolerating homophobic harassment

show significantly decreased rates of attempted suicide compared to those without such policies (Hatzenbuehler & Keyes 2013; Poteat et al. 2013).

24. Lower incomes: The lack of reliable research data on lesbian and gay incomes in Canada has made it difficult to carry out valid studies on this point in Canada. However, research findings in the United States over a long period of time indicate that sexuality has a measurable impact on incomes in that country. The leading analyst in this area, MV Lee Badgett (2012), director of the Center for Public Policy and Administration at the University of Massachusetts Amherst, sums the current research literature as follows: "gay and bisexual men earn from 10% to 32% less than similarly qualified heterosexual men. Lesbians generally earn the same as or more than heterosexual women, but lesbians earn less than either heterosexual or gay men."

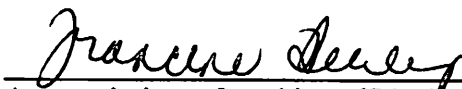
25. Based on this extensive record of social science investigation, then, any implementation or enforcement of a policy of exclusion reproduces the conditions that lead to well demonstrated deleterious consequences for lesbian, gay, and bisexual people. The use of the sexuality of lesbian, gay, and bisexual people as a disqualification for educational opportunities contributes to a historic pattern of diminished citizenship and consequent psychological harm.

26. Attached to this Affidavit and marked as Exhibit "B" is copy of my Bibliography.


SWORN BEFORE ME at the City of )

Windsor, in the Province of Ontario )

this 2<sup>nd</sup> day of April, 2014. )

  
A commissioner for taking affidavits )  
for Ontario )

Francine Herlehy




BARRY ADAM

THIS IS EXHIBIT "A" REFERRED TO IN THE

AFFIDAVIT OF BARRY ADAM

SWORN BEFORE ME AT WINDSOR

THIS 2<sup>ND</sup> DAY OF APRIL, 2014

A handwritten signature in cursive script, reading "Francine Herlehy", is written over a horizontal line.

A COMMISSIONER FOR TAKING AFFIDAVITS IN ONTARIO

Francine Herlehy

**CURRICULUM VITAE****BARRY D ADAM**

University Professor	Senior Scientist and Director of Prevention Research
Department of Sociology, Anthropology and Criminology	Ontario HIV Treatment Network
University of Windsor	1300 Yonge Street #600
401 Sunset Avenue	Toronto, Ontario
Windsor, Ontario	Canada M4T 1X3
Canada N9B 3P4	<hr/>
Voice 519-253-3000 ext 3497	Voice 877-743-6486 / 416-642-6486 ext 2242
Fax 519-971-3621	Fax 416-640-4245
Web <a href="http://www.uwindsor.ca/adam">http://www.uwindsor.ca/adam</a>	Web <a href="http://www.ohtn.on.ca/">http://www.ohtn.on.ca/</a>

**Home address**

1677 Victoria Avenue  
Windsor, Ontario  
Canada N8X 1P6  
Home 519-252-5677

70 High Park Avenue #1804  
Toronto, Ontario  
Canada M6P 1A1  
Cell 416-662-8055

*Citizenship:* Canadian

**EDUCATION**

1973-77	Ph.D., Sociology, University of Toronto
1972-73	M.A., Sociology, University of Toronto
1969-72	B.A.(Hon), Sociology & Political Science, Simon Fraser University

**ACADEMIC APPOINTMENTS**

2008-	Senior Scientist and Director of Prevention Research, Ontario HIV Treatment Network
2000-	University Professor, University of Windsor
1988-2000	Professor, University of Windsor
1996-99	Head, Department of Sociology and Anthropology
1995	Research Professor, University of Windsor
1981-88	Associate Professor, University of Windsor
1976-81	Assistant Professor, University of Windsor

**PROFESSIONAL MEMBERSHIPS**

American Sociological Association: Sections on

- Collective Behavior and Social Movements
- Political Economy of the World System
- Sociology of Sexualities

Association for the Social Sciences and Humanities in HIV

Canadian Association for HIV Research

Canadian Association of Latin American and Caribbean Studies

Canadian Society for the Sociology of Health

Canadian Sociological Association

International AIDS Society

International Sociological Association: Research Committees on

- Social Classes and Social Movements
- Sociology of Communication, Knowledge and Culture
- Sociology of Health



## Sexuality Studies Association of Canada

**HONOURS & AWARDS**

- 2013 Queen's Diamond Jubilee Medal awarded by the Governor General of Canada.
- 2012 Community Partners Award, Ontario AIDS Network, the federation of AIDS service organizations in Ontario.
- 2009 Dean's Special Recognition Award for excellence in research, scholarship and creative activity.
- 2007 Simon-Gagnon Award for a distinguished career in the study of sexualities, presented by the Sociology of Sexualities Section of the American Sociological Association, New York.
- 2007 Best Article Award (with Tarik Bereket) presented by the Sociology of Sexualities Section of the American Sociological Association, New York.
- 2006-9 Career Scientist Award in Risk, Culture and Sexuality, Ontario HIV Treatment Network
- 2005 Visiting Scholar, York Summer Seminar in Social & Cultural Theory, Joint Graduate Programme in Communication & Culture, York University, Toronto.
- 2004 University of Windsor Award for Excellence in Scholarship, Research and Creative Activity.
- 2000 Resident Scholar, Center for Cultural Studies, University of California at Santa Cruz.
- 2000 Annual Recognition Award for Outstanding Research in Clinical and Educational Sexology by the Midwest Institute of Sexology, Southfield, Michigan.
- 1993 Canada 125 Commemorative Medal awarded by the Governor General of Canada for service to the community.
- 1991 Volunteer Service Award made by the Ontario Minister of Citizenship and the Minister of Culture and Communications for work with the Third World Resource Centre.
- 1990 Volunteer of the Year, a city-wide award sponsored by the United Way and the Windsor Star, for work with the AIDS Committee of Windsor.

**COURSES TAUGHT**

- |   |  |
|---|--|
| 48-102 Social Institutions & Social Change                    | 48-406 Marxist Theory                            |
| 48/49-201 Social Thought                                      | 48-414 Social Deviance and Conformity            |
| 48-207 Social Problems  | 48-500 Sociological Theory                       |
| 48-227 Globalization and Social Change                        | 48-505 Symbols & Society                         |
| 48-228 Social Stratification                                  | 48-510 Intergroup Relations                      |
| 48/54-327 Social Movements (cross-listed with Labour Studies) | 48-512 Seminar in Macrosociology                 |
| 48-350 Theories of Sexuality                                  | 48-520 Social Movements and Popular Mobilization |
| 48-351 Gay and Lesbian Studies                                | 48-580 Subordination, Identity and Empowerment   |
| 48/49-402 Qualitative Methodology                             | 48-600 Social Theory and Social Justice          |
| 48-403 Culture and Ideology                                   |  |

**GRADUATE SUPERVISION****MA theses supervised**

N. Isuf	A. Ligori	G. Opeola	K. Dowler	G. General
G. Olsen	J. Samuels	J. Gahagan	T. Bereket	S. Bortolin
P. Bridges	J. Airey	J. Mills	A. Scott	K. Phipps
W. Lee	T. Chow	J. Shantz	J. Callegher	H. Rivas
D. Dekindt	P. Silverwood			

**MA theses co-read**

J. Mulvale	A. Jones	K. Glaser	S. Bonhomme	P. Lynd
K. M'Closkey	R. Brohier	B. Malesevic	S. Betker	P. Green
M. Davies	P. Patterson	S. Strom	L. Leveque	M. Awoke

S. Laundry

M. Reynolds

**External examiner, M.A.**

E. Weinstein (Psychology)

P. Corbin (Psychology)

T. Lauriston (Communication)

A. Paton (Social Work)

K. Kitchen (Social Work)

V. Scatamburio (Communication)

D. Pawlowski (Religious St)

J. Wentges (Political Science)

C. Uchacz (Kinesiology)

J-P. Restoule (Communication)

J-R. Leblanc (Visual Arts)

W. Foster (English)

R. Hamilton (Visual Arts)

S. Lall (English)

S. Knabe (Trent University)

J. Chin (Visual Arts)

T. Stanley (University of Canterbury)

S. Gee (Psychology)

H. Fomutar (Communication)

**PhD theses supervised**

M. Bratton

J. McCauley

M.F. Cachon

A. Serrano Sánchez

**PhD theses co-read**

E. Vokes (Psychology)

L. Smylie

S. Beer

S. Akbar (Psychology)

D. Hill (Psychology)

M. Munsterhjelm

**External examiner, PhD**

R. Marchand, Ontario Institute for Studies in Education

G. Kinsman, Ontario Institute for Studies in Education

G. Woolcock, LaTrobe University

R. Travers, University of Toronto

D. Fox, University of Ottawa

A. Stone, University of Michigan at Ann Arbor

W. Peters, University of Toronto

L. Armitage, McMaster University

O. Modesto Ramírez, Macquarie University

K. Osterlund, York University

M. Graydon, Carleton University

K. Hammet, University of South Australia

G. Girard, École des Hautes Études en Sciences Sociales, Paris

C. Sanders, York University

**Post-doctoral fellowship supervision**

2000-02

J. Gillett

**International doctoral fellowship supervision**

2010-11

A. Carneiro

**PUBLICATIONS****Books**

Barry D Adam, Jan Willem Duyvendak and André Krouwel. 1999. *The Global Emergence of Gay and Lesbian Politics*. Philadelphia: Temple University Press, 381 + vi.

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- Barry D Adam, Richard Elliott, Patrice Corriveau, Robb Travers, and Ken English. 2012. How criminalization is affecting people living with HIV in Ontario. Ontario HIV Treatment Network.
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2013. Gilles Herrada. The Missing Myth. *Xtra Ottawa* 255:27.  
[http://www.xtra.ca/public/National/New\\_and\\_ancient\\_visions\\_of\\_samesex\\_love-13439.aspx](http://www.xtra.ca/public/National/New_and_ancient_visions_of_samesex_love-13439.aspx)
2013. Nick Rumes. Queer Company. *Contemporary Sociology* 42 (1):103-104.
2011. Carlos Decena. Tacit Subjects. *Canadian Journal of Latin American and Caribbean Studies* 36 (72):251-252.
2011. Josh Sides. Erotic City. *Contemporary Sociology* 40 (1):83-85.
2008. Miriam Smith. Political Institutions and Lesbian and Gay Rights in the United States and Canada. *Canadian Journal of Sociology* 33 (4):999-1001.  
<http://ejournals.library.ualberta.ca/index.php/CJS/article/view/4387/3671>
2007. Arlene Stein. Shameless. *Contemporary Sociology* 36 (3):238-239.
2007. Martin Meeker. Contacts Desired. *International Journal of Communication* 1:54-55.
2006. John F Galliher, Wayne H Brekhus, and David P Keys. Laud Humphreys. *Journal of the History of Sexuality* 15 (3):499-502.
2006. Michael Shernoff. Without Condoms. *Sexuality Research and Social Policy* 3 (4):94-95.
2006. Steven Seidman. Beyond the Closet. *American Journal of Sociology* 111 (1):322-323.
2004. Nan Alamilla Boyd. Wide Open Town. *Journal of the History of Sexuality* 13 (3):373-4.
2003. David Halperin. How To Do the History of Homosexuality. *Journal of the History of Behavioural Sciences* 39 (4):407-8.
2002. Mark Blasius. Sexual Identities, Queer Politics. *Journal of the History of Sexuality* 11 (3):488-490.
2002. Cheshire Calhoun. Feminism, the Family, and the Politics of the Closet. *Canadian Journal of Sociology* 27 (3):456-8.
2002. Jeffrey Weeks, Brian Heaphy and Catherine Donovan. Same Sex Intimacies. *Canadian Journal of Sociology Online* <http://www.arts.ualberta.ca/cjscopy/reviews/samesex.html>
2001. Christopher Carrington. No Place Like Home. *Journal of Homosexuality* 42 (2):147-150.
1999. Jeffrey Escoffier. American Homo. *Sexuality and Culture* 3
1999. Carole Campbell. Women, Families & HIV/AIDS. *Canadian Journal of Sociology Online*.  
<http://www.arts.ualberta.ca/cjscopy/reviews/womenaids.html>
1998. Kevin Mumford. Interzones. *Journal of American History* (December): 1111-2.
1996. John Yogis, Randall Duplak and J Royden Trainor. Sexual Orientation and Canadian Law. *Windsor Yearbook of Access to Justice* 15:258-259.
1996. Edward Laumann et al. The Social Organization of Sexuality. *GLQ* 3:311-316.
1996. Diane Davis & Howard Kimeldorf. Political Power and Social Theory, v. 9. *Contemporary Sociology* 25 (4):495.
1996. Karen Cerulo. Identity Designs. *Choice* 33:1701
1996. Anna Marie Smith. New Right Discourse on Race and Sexuality. *Centre/Fold* 9:29-30
- 1979-95. Fifty additional reviews as follows:  
*American Journal of Sociology* 93(3):744-746, 92(4):1035, 91(6):1516; *Canadian Journal of Political and Social Theory* 4(2):75; *Canadian Journal of Sociology* 15 (4):497; 5(Spring)201, *Canadian Philosophical Reviews* 14 (1):14-15; *Canadian Review of Sociology and Anthropology* 27(4):552-553; 26(2):360-361; *Choice* 1994 (32:684, 31:1004); 1992 (29:1718); 1991 (29:629, 29:361, 28:1178, 28:861); 1990 (27:1248); 1989 (27:396); 1988 (25:1134, 25:977); 1987 (24:1154); 1986 (23:1600, 23:1148), 1985 (22:1081), 1983 (21:190); *Contemporary Crises* 13:86-88; *Contemporary Sociology* 22(6):813-814, 17(1):110-111, 16(5):747, 12(5):518; *Gender and Society* 8(3):463-464; *Journal of Homosexuality* 6(Winter)217; 4(Summer)395; *Journal of the History of Sexuality* 1(3):510-512; *Social Science Quarterly* 60(December)545; *Sociology*:

*Reviews of New Books* 10(April/May):19; 9(November/December):146, 9(March/April):64, 8(May/June)73; 8(November/December)4; 7(March/April)58; 6(July/August) 143; *Transaction/Society* 25(4):89.

### PAPERS PRESENTED

- Barry D Adam. 2014. "Current prospects for HIV reduction among gay, bisexual, and other men who have sex with men" National Gay Men's HIV Health Promotion Conference, Australian Federation of AIDS Organisations, Sydney.
- Barry D Adam, Greta Bauer, James Brooks, Jason Globberman, Colin Kovacs, Eric Mykhalovskiy, Sean Rourke, Rita Shalin, and Ann Burchell. 2013. "Sources of HIV awareness reported by recent seroconverters" Ontario HIV Treatment Network conference, Toronto.
- Dan Allman, Ted Myers, Stephen Alexander, Robert S. Remis, Martin Blais, John Maxwell, Liviana Calzavara, Rick Marchand, Barry D. Adam, and Lee Vernich. 2013. "Comparison of MSM respondents residing in Ontario with men residing in other provinces and territories of Canada: Results from the Male Call Canada Survey" Ontario HIV Treatment Network conference, Toronto.
- Barry D Adam, Colin Kovacs, Ann Burchell, James Brooks, Sean Rourke, and Jason Globberman. 2013. "Predisposing circumstances in the narratives of new sero-converters" 2<sup>nd</sup> International HIV Social Sciences and Humanities Conference, Paris.
- Barry D Adam, Cristian Rangel, and Angel Serrano. 2013. "Migration, sexuality and HIV risk among Latino gay men in Canada" 2<sup>nd</sup> International HIV Social Sciences and Humanities Conference, Paris.
- Jenna Valleriani, Adam Green, and Barry D Adam. 2013. "Is marital monogamy dead?: A qualitative exploration" Canadian Sociological Association, Victoria.
- Barry D Adam. 2013. "Disclosure as HIV Prevention." HIV Prevention and the Criminal Law: An International Research Workshop on the Public Health Impact of Criminalizing HIV Exposure/Transmission, Toronto.
- Barry D Adam. 2013. "What new sero-converters in Toronto are saying about the contexts of acquiring HIV" Beyond Behaviours conference, Vancouver.
- Moody, C., Willis, A. C., Stratton, N., Smith, N. G., Hart, T. A., Blais, M., & Adam, B. 2013. "A novel HIV-prevention intervention addressing minority stress among gay and bisexual men" Poster session, American Psychological Association, Honolulu.
- Barry D Adam, Cristian Rangel, Angel Serrano Sánchez, and Gerardo Betancourt. 2012. "HIV awareness among gay Latino migrants to Canada" Ontario HIV Treatment Network Annual Research Conference, Toronto.
- Trevor Hart, Barry D Adam, Natalie Stratton, John Maxwell, Robert MacKay, David Hoe, Robert Leahy, James Murray, & Mona R. Loutfy. 2012. "Gay Poz Sex (GPS): Qualitative findings of a Community-Based Counselling Intervention for HIV-Positive Gay and Bisexual Men" Ontario HIV Treatment Network Annual Research Conference, Toronto.
- Barry D Adam. 2012. "How criminalization is affecting people living with HIV in Ontario" Sex and Justice conference, University of Michigan at Ann Arbor and Australian Research Centre in Sex, Health and Society, Melbourne.
- Barry D Adam and Cristian Rangel. 2012. "Everyday moral reasoning in the governmentality of HIV" Australasian Society for HIV Medicine, Melbourne, Australia.
- Barry D Adam. 2012. "Where are we in HIV reduction among gay, bisexual, and other men who have sex with men?" International AIDS Conference, Washington, DC, and plenary address to the Australasian Society for HIV Medicine, Melbourne, Australia.
- Barry D Adam. 2012. "Structural dimensions of prevention with a focus on men who have sex with men (MSM) in a context of new technologies" Ensuring a Supportive Environment for a Long Term HIV Response: Social and Political Challenges Pre-Conference, Washington, DC.
- TA Hart, Adam, B, Stratton, N, Maxwell, J, MacKay, R, Hoe, D, Leahy, R, Murray, J, & Loutfy, M. 2012. Gay Poz Sex (GPS): A community based counselling intervention for HIV-positive gay and bisexual men. Association of Behavioral Cognitive Therapy, National Harbor, MD.
- Barry D Adam. 2012. "Intersections among neoliberalism, masculinity, sex, and risk" Concordia University Community Lecture Series on HIV/AIDS, Montréal.

- Barry D Adam. 2011. "PHA views on HIV and the law" Ontario HIV Treatment Network Research Conference, Toronto.
- Barry D Adam, Cristian Rangel and Angel Serrano. 2011. "Sexual decision making among Spanish speaking gay men" Ontario HIV Treatment Network Research Conference, Toronto.
- Trevor Hart, Barry Adam, Natalie Stratton, Matt Eldridge, John Maxwell, Robert MacKay, David Hoe, Robert Leahy, Herbert Co, James Murray, Eleanor Matlicka-Tyndale, Mona Loutfy. 2011. "Gay Poz Sex (GPS): a community based counselling intervention for HIV-positive gay and bisexual men" Ontario HIV Treatment Network Research Conference, Toronto.
- Barry D Adam. 2011. "Epistemic fault lines in biomedical and social approaches to HIV prevention" and panellist, Integrating Social and Biomedical Science: Prospects and Challenges for 'Combination Prevention,' 1st International HIV Social Sciences and Humanities Conference, Durban, South Africa, and XVII Curso Internacional del Sida y Enfermedades Infecciosas, Cali, Colombia.
- Barry D Adam. 2010. "Neoliberalism, masculinity and HIV risk" Departments of Sociology and Gender Studies, Northwestern University, Evanston, Illinois.
- Jaime McCauley and Barry D Adam. 2010. "From 'Boston marriage' to marriage equality" Society for the Study of Social Problems, Atlanta.
- Barry D Adam, James Murray, Suzanne Ross, Jason Oliver and Stephen G Lincoln. 2010. "Creating a community dialogue on HIV stigma reduction" International AIDS Conference, Vienna.
- Barry D Adam. 2010. "Intersections entre néo-libéralisme, masculinité, sexe et risque" Sciences sociales, homosexualité et sida, colloque de Sidaction, Paris.
- Barry D Adam, Patrice Corriveau, Richard Elliott, Robb Travers and Ken English. 2010. "Drawing the line: Views of HIV-positive people on the criminalization of HIV transmission in Canada" Symposium on HIV, Law and Human Rights of the Canadian HIV/AIDS Legal Network, and Ontario Advisory Committee on HIV and AIDS of the Ontario Ministry of Health and Long-Term Care, Toronto.
- Barry D Adam and Adam Isaiah Green. 2010. "Circuits and the social organization of sexual fields" Bringing Bourdieu to Sexual Life conference, Toronto.
- Barry D Adam, Richard Elliott, Patrice Corriveau, Robb Travers, and Ken English. 2010. "People living with HIV respond to the criminalization of HIV transmission" Canadian Association for HIV Research, Saskatoon.
- Winston Husbands, Lydia Makoroka, Clemon George, Barry D Adam, Robert Remis, Sean Rourke, and Joseph Beyene. 2010. "Resourceful Communities or at-Risk Populations? Conceptualizing HIV Prevention for African, Caribbean and Black gay and bisexual men in Toronto" and "Inter-racial sex among gay and bisexual men in Toronto" Canadian Association for HIV Research, Saskatoon.
- Barry D Adam. 2010. "La sexualidad masculina, riesgo y vulnerabilidad al VIH" Conferencia magistral a la Academia Mexicana de Estudios de Género de los Hombres, Monterrey, México.
- Barry D Adam, James Murray, Suzanne Ross, Jason Oliver and Stephen G Lincoln. 2010. "Hivstigma.com, an innovative web-based stigma reduction intervention for gay and bisexual men" 11<sup>th</sup> Social Research Conference on HIV, Hepatitis C and Related Diseases, Sydney.
- Barry D Adam. 2010. "What effects is the criminal justice system having in HIV prevention?" Criminal Law Seminar of the National Judicial Institute, Toronto.
- Barry D Adam. 2010. "Troubling the discourse of treatment as prevention" Re-framing the Social Dimensions of HIV in a Biomedicalised Epidemic conference, London, United Kingdom.
- Barry D Adam. 2010. "Research on HIV risk among gay, bisexual, and other men who have sex with men: Update 2007-2010" Canadian AIDS Treatment Information Exchange national webinar, Ontario Gay Men's Sexual Health Summit, and HIV Testing conference, Toronto.
- Alan Li, Barry D Adam, Jason Globerman, James Murray, Devan Nambiar, Maurice Poon, and Haile Fenta. 2009. "Developing a coordinated research agenda for ethno-racial men who have sex with men in Ontario" Ontario HIV Treatment Network Research Conference, Toronto.
- Trevor Hart, Barry D Adam, John Maxwell, Robert MacKay, David Hoe, Robert Leahy, Herbert Co, Eleanor Matlicka-Tyndale, and James Murray. 2009. "Gay poz sex: A community-based counselling intervention for HIV-positive men" Ontario HIV Treatment Network Research Conference, Toronto.

- Sergio Rueda Tsegaye Bekele, Janet Raboud, Alan Li, Murray Jose, Winston Husbands, Barry D Adam, Jean Bacon, Kelly O'Brien, Anita Rachis, Nicole Mittmann, John Cairney, Sean Rourke and the OCS Study Team. 2009. "Job security is associated with quality of life in men living with HIV" Ontario HIV Treatment Network Research Conference, Toronto.
- Barry D Adam. 2009. "Advancing poz prevention" People With AIDS Foundation, Toronto.
- . "HIV prevention research in Ontario" Ontario Advisory Committee on HIV and AIDS, Toronto, and Inter-Agency Coalition on AIDS and Development and African and Caribbean Council on HIV in Ontario, Ottawa.
- . "Research on HIV Risk Among Gay, Bisexual, and other Men Who Have Sex With Men" Ontario HIV Treatment Network Summer Learning Institute, Toronto.
- . 2009. "From prevention research to prevention practice" and "Mano en Mano" (with Gerardo Betancourt) AIDS Committee of Toronto Research Day.
- . 2009. "Community-level issues in research ethics" Community-Based Research and Ethics Capacity Building Workshop, Toronto.
- . 2009. "What effects is the criminal justice system having in HIV prevention?" Canadian Association for HIV Research, Vancouver, AIDS Committee of Toronto Research Day, and First Annual Symposium on HIV, Law and Human Rights, Toronto.
- Barry D Adam, Gerardo Betancourt, and Celeste Joseph. 2009. "Implementation of the first pilot intervention for Latino MSM newcomers to Canada" Canadian Association for HIV Research, Vancouver, and National HIV Prevention Conference, Atlanta.
- Sergio Rueda, Tsegaye Bekele, Katy Gibson, Sandra Gardner, John Cairney, Sarah Rubenstein, Barry Adam, Ron Rosenes, Sean Rourke, OHTN Cohort Study Team. 2009. "Mastery and social support buffer the effect of HIV-related stigma on depression" Canadian Association for HIV Research, Vancouver.
- Clemon George, Winston Husbands, Barry D Adam, Sean Rourke, Joseph Beyene, and Robert Remis. 2009. "MaBwana black men's study" Canadian Association for HIV Research, Vancouver.
- Barry D Adam. 2009. "Advancing poz prevention" Southwestern Ontario Opening Doors HIV/AIDS Counselling Conference, Windsor, Ontario.
- . 2009. "Conceiving subjectivity in HIV transmission" Department of Sociology, Wilfrid Laurier University, Waterloo, Ontario.
- . 2009. "HIV Prevention Research in Ontario with gay, bisexual, and other men who have sex with men" Ontario Gay Men's Sexual Health Summit, Toronto.
- . 2008. "Synergies and differences in biomedical and social approaches to HIV prevention" Ontario HIV Treatment Network Conference, Toronto.
- Sergio Rueda, Tsegaye Bekele, Katherine Gibson, Sandra Gardner, John Cairney, Sarah Rubenstein, Peggy Millson, Barry Adam, Ron Rosenes, Carmen Logie, Sean B. Rourke. 2008. "Social support and mastery buffer the negative effects of HIV-related stigma on mental health-related quality of life in the OHTN Cohort Study" International Conference on Urban Health, Vancouver.
- Sergio Rueda, Tsegaye Bekele, Katy Gibson, Janet Raboud, John Cairney, Lori Lucier, Murray Jose, Alan Li, Barry Adam, Jean Bacon, Winston Husbands, Kelly O'Brien, Anita Rachis, Nicole Mittmann, Robb Travers, Peggy Millson, Michael Wilson, Patty Solomon, Sean B. Rourke. 2008. "Labour force participation is associated with health outcomes in the OHTN Cohort Study" International Conference on Urban Health, Vancouver.
- Barry D Adam. 2008. "Forms of evidence" Canadian AIDS Treatment Information Exchange Educational Conference, Toronto.
- Barry D Adam, Jaime McCauley, Catherine Brooke, and Sandra Bortolin. 2008. "Canadian LGB youth not prepared by school system to manage HIV risk" International AIDS Conference, Mexico City.
- Barry D Adam. 2008. "Reclaiming HIV prevention research" Global Forum on MSM & HIV, Mexico City.
- Jaime McCauley, Barry D Adam, Catherine Brooke, and Sandra Bortolin. 2008. "It's a technical problem" American Sociological Association, Boston.
- Barry D Adam and Trevor Hart. 2008. "The poz prevention study" Ontario HIV Treatment Network Summer Learning Institute on Social Justice and HIV/AIDS Research, Toronto.
- Sandra Bortolin, Barry D Adam, Catherine Brooke, and Jaime McCauley. 2008. "Gay, lesbian and bisexual youth's experiences of school climate" Canadian Association for the Study of Women in Education, Vancouver.

- Reza Nakhaie and Barry D Adam. 2008. "Political affiliation of Canadian university professors" Canadian Sociological Association, Vancouver.
- Barry D Adam. 2008. "Challenges in developing an effective poz prevention program" Canadian Association for HIV Research, Montreal.
- Catherine Brooke, Barry D Adam, Sandra Bortolin, and Jaime McCauley. 2007. "Perceptions of HIV risk among lesbian, gay, bisexual, transgender, and questioning youth" Canadian Sociological Association, Saskatoon.
- Barry D Adam. 2007. "Strategic positioning and episodic condom use," Ontario HIV Treatment Network Research Conference, Toronto.
- Jaime McCauley, Barry D Adam, Catherine Brooke and Sandra Bortolin. 2007. "'It's a Technical Problem': Young Lesbian and Bisexual Women's Perceptions of HIV Risk and Use of Prevention Strategies," and "Perceptions of HIV Risk Among Lesbian, Gay, Bisexual, Transgender, & Questioning Youth" Ontario HIV Treatment Network Research Conference, Toronto
- Barry D Adam. 2007. "Challenges in developing an effective poz prevention program" Ontario HIV Treatment Network/ Canadian AIDS Treatment Information Exchange Learning Institute, Toronto.
- , 2007. "Cultural trends in safe and unsafe sex" International Academy of Sex Research, Vancouver, University of Toronto Sociology Speakers Series and Sexual Diversity Studies Speakers Series, and National Centre in HIV Social Research, University of New South Wales, Sydney.
- Clemon George, Winston Husbands, Barry D Adam, Joseph Beyene, Robert Remls and Sean Rourke. 2007. "In search of Black men who have sex with men—MaBwana" AIDS Impact, Marseille, France.
- Barry D Adam. 2007. "Cuerrier through the eyes of men having unprotected sex" Canadian Association for HIV Research, Toronto.
- , 2007. "Research on HIV risk among gay and bisexual men" Ontario Gay Men's Health Summit, Toronto; Opening Doors HIV Counselling Initiative, Southwestern Ontario, Windsor; and Ministerial Council on HIV/AIDS, Public Health Agency of Canada, Ottawa.
- , 2006. "Communicating with gay and bisexual men" HIV Testing Campaign Committee, AIDS Bureau, Ontario Ministry of Health and Long Term Care, Toronto.
- , 2006. "Gay and bisexual men who have unprotected sex most or all of the time" Ontario HIV Treatment Network Conference, Toronto, and British Columbia Gay Men's Health Summit, Vancouver.
- Barry D Adam, James Murray, John Maxwell and Winston Husbands. 2006. "Challenges posed by bareback networks and belief systems" International AIDS Conference, Toronto.
- James Murray, Barry D Adam, John Maxwell and Winston Husbands. 2006. "Ensuring knowledge transfer and exchange through a multi-stakeholder community-based research project" International AIDS Conference, Toronto.
- Barry D Adam. 2006. "Prevention challenges in addressing positive and negative men" Positive Men's HIV Prevention Working Group, AIDS Bureau, Ontario Ministry of Health and Long Term Care, Toronto.
- , 2006. "Research on HIV prevention for gay and bisexual men" and "The Toronto Pride survey 2005" Ontario AIDS Network prevention educators' conference, Toronto, and British Columbia Gay Men's Health Summit, Vancouver.
- Barry D Adam, James Murray, John Maxwell and Winston Husbands. 2005. "Who are Toronto barebackers?", "Unprotected sex among MSM who do not participate in the bareback scene," "How well did the Assumptions campaign reach MSM at risk?" and "The 2005 sexual health promotion research needs assessment for MSM in Canada" Ontario HIV Treatment Network Research Conference, Toronto.
- Barry D Adam. 2005. "HIV/AIDS politics and social policies" American Sociological Association, Philadelphia.
- , 2004-5. "Infectious behaviour" Reframing Infectious Disease conference, Institute of the Humanities, University of Michigan at Ann Arbor; Eminent Faculty Lecture Series, Humanities Research Group, University of Windsor; York Summer Seminar in Social & Cultural Theory, York University; and Plenary address to the 17<sup>th</sup> World Congress for Sexual Health, Montréal.
- , 2003-5. "Renewing HIV Prevention for Gay and Bisexual Men"
- ▶ Ontario AIDS Network executive directors' conference, Toronto
  - ▶ Ontario HIV Outpatient Clinics Education Day, Ottawa
  - ▶ Ontario AIDS Network prevention educators' conference, Toronto

- ▶ HIV Care Programme, Windsor Western Regional Hospital
- ▶ Ottawa Public Health and Ottawa Gay Men's Wellness Initiative
- ▶ Community-Linked Evaluation AIDS Resource (CLEAR) research unit, McMaster University
- ▶ Federal-Provincial-Territorial Advisory Committee on HIV/AIDS, Toronto.
- , 2004. "Reinfection discourses among HIV-positive men" and "From research to action and back again" Ontario HIV Treatment Network Research Conference, Toronto.
- , 2004. "Constructing the neoliberal sexual actor" American Sociological Association, San Francisco.
- , 2004. "AIDS optimism, condom fatigue, or self-esteem?" Health Studies Program, McMaster University, Hamilton, Ontario.
- , 2003. "Talking to barebackers and other high risk men" Plenary address to the Ontario HIV Treatment Network, Toronto, and Social Causation and Social Intervention Against HIV mini-conference, Center for AIDS Prevention Studies, University of California, San Francisco.
- , 2003. "Relationship innovation in male couples" American Sociological Association, Atlanta.
- , 2003. "Moral reasoning and care of the self in unsafe sex among gay men" and "Sources of Inconsistent condom use among gay and bisexual men" AIDS Impact: Biopsychosocial Aspects of HIV Infection, Milan.
- , 2003. "Beyond statistics and self-esteem" Guelph Sexuality Conference, Guelph, Ontario.
- Barry D Adam, James Murray, John Maxwell and Winston Husbands. 2003. "Modalities of condom use by gay men in couples with casual partners" and "Negotiating safety or slipping out of condoms?" Canadian Association for HIV Research, Halifax.
- Barry D Adam. 2002. "Domination, resistance, and subjectivity" American Sociological Association, Chicago.
- , 2002. "AIDS optimism, semiotic snares, and the bio-medical subject," joint session of the Canadian Society for the History and Philosophy of Science, Canadian Society for the History of Medicine, Canadian Association for the History of Nursing, and Canadian Lesbian and Gay Studies Association, Toronto; revised version to the International AIDS Conference, Barcelona.
- Barry D Adam and James Murray 2002. "Ageing and HIV risk" Canadian Association for HIV Research, Winnipeg.
- Barry D Adam. 2002. "Families Without Heterosexuality?" The Economic & Social Research Council Research Group for the Study of Care, Values & the Future of Welfare, University of Leeds, United Kingdom.
- Barry D Adam, Eleanor Maticka Tyndale and Jeffrey J Cohen. 2001. "Living with combination therapies" 4<sup>th</sup> Annual Ontario HIV Treatment Network Research Day, Toronto.
- , 2001. "Adherence practices and illness status" AIDS Impact: Biopsychosocial Aspects of HIV Infection, Brighton, UK.
- Barry D Adam. 2001. "Why (some) gay men are still having unsafe sex" Guelph Sexuality Conference, Guelph, Ontario.
- , 2001. "Theorizing the globalization of gay and lesbian movements" International Sociological Association Conference on Social Movements and New Social Communities, New York.
- , 2000. "From liberation to transgression, or now what?" American Sociological Association, Washington, DC.
- , 2000. "DOMA and American exceptionalism" Department of Sociology, University of California at Santa Cruz.
- Barry D Adam, Eleanor Maticka Tyndale and Jeffrey J Cohen. 2000. "Adherence practices and realities" Canadian Association for HIV Research, Montréal.
- Barry D Adam. 1999. "Age preferences among gay and bisexual men" American Sociological Association, Chicago.
- , 1999. "Toward a new generation of safer sex promotion" Canadian Association for HIV Research, Victoria; revised version presented to Ontario HIV Prevention Emerging Challenges Conference, Toronto.
- , 1998. "Globalization and the mobilization of gay and lesbian communities" International Sociological Association, Montréal.
- , 1998. "Gay, bisexual, or neither: Constructions of sexual orientation and identity among men who have sex with men" Canadian Lesbian and Gay Studies Association, Ottawa.
- , 1998. "Accounting for unsafe sex" Canadian Association for HIV Research, Québec; earlier drafts presented to the Determinants of HIV Risk Behaviour National Meeting, Health Canada, Ottawa, the University of Houston, and the Michigan Sexological Center, Detroit.



- , 1997. "An inclusive curriculum and climate for gay, lesbian, bisexual, and transgendered people" American Sociological Association Chair Conference, Toronto.
- , 1997. "Homophobia and modernity" Plenary address to the Canadian Sociology and Anthropology Association, St John's, Newfoundland.
- , 1996. "Moral regulation and the disintegrating Canadian state" International Sociological Association conference on Globalization and Collective Action, University of California at Santa Cruz; revised version presented to a joint session of the Canadian Sociology and Anthropology Association and Canadian Lesbian and Gay Studies Association, St Catharines, Ontario.
- , 1995. "AIDS and the formation of community" American Sociological Association, Washington, D.C.
- Alan Sears and Barry D Adam. 1995. "Health services in Canada and the United States" Canadian Sociology and Anthropology Association, Montréal.
- Barry D Adam. 1994. "Text and context in the construction of gay and lesbian subjects" American Sociological Association, Los Angeles.
- , 1992. "Mobilizing around AIDS" Burroughs Wellcome workshop on the Impact of HIV on the Lesbian and Gay Community, Rancho Santa Fe, California; revised version presented in 1994 to the Organizing Sexuality conference, Amsterdam.
- Barry D Adam and Alan Sears. 1992. "Sex after AIDS" Society for the Study of Social Problems, Pittsburgh.
- Alan Sears and Barry D Adam. 1992. "AIDS at work" Canadian Sociology and Anthropology Association, Charlotte-town.
- Barry D Adam. 1991. "Postmarxism and the new social movements" Society for the Study of Social Problems, Cincinnati; revised version presented in 1993 to the Canadian Sociology and Anthropology Association, Ottawa.
- , 1990. "Television news constructs the 1990 Nicaraguan election" Ontario Cooperative Program for Latin American and Caribbean Studies, Windsor.
- , 1990. "Central America and television news" International Sociological Association, Madrid.
- , 1989. "A sociological research agenda for people living with AIDS" Plenary address to the American Sociological Association, San Francisco.
- , 1989. "Impacts of AIDS on the gay community" Society for the Study of Social Problems, Berkeley, CA.
- , 1988. "The state, public policy, and AIDS discourse" Workshop on Feminism, Critical Theory, and the Canadian Legal System and the Canadian Sociology and Anthropology Association, Windsor, and the Representing AIDS conference, London, Ontario.
- , 1987. "Neighborhood democracy in Nicaragua" Canadian Association of Latin American and Caribbean Studies, Windsor.
- , 1985. "The construction of a sociological 'homosexual' in Canadian textbooks" Canadian Sociology and Anthropology Association, Montréal.
- , 1976-83. Ten additional papers to: International Sociological Association, Society for the Study of Social Problems, Association for Humanist Sociology, American Sociological Association, and Canadian Sociology and Anthropology Association.

### RESEARCH AND CONFERENCE GRANTS

2013-16	Co-principal applicant, "The Resonance Project: Emerging Biomedical Discourses and Decisions within Gay Men's Knowledge Networks," Canadian Institutes for Health Research (with Ed Jackson (co-PA), Shayna Buhler, Greg Penney, Kim Thomas, Leonard Tooley, James Wilton, San Patten, Owen McEwen, and Wayne Robert)	355,218
2012-17	Co-applicant, "REACH CBR Collaborative Centre in HIV/AIDS," Canadian Institutes for Health Research (with Sean Rourke (PA), Tara Carnochan, Julie Dingwell, Rick Kennedy, Jennifer Jones, Susan Kirkland, Frank McGee, Ryan Melli, Javier Mignone, Kenneth Monteith, Joanne Otis, Catherine Worthington et al)	1,500,000

2011-16	Co-investigator, "Envisioning Global LGBT Human Rights" Social Sciences and Humanities Research Council (with Nancy Nicol (PI), Lydia Makoroka, Kimberley Vance, Helen Kennedy, El-Farouk Khaki, Pamela Shime, Monia Mbaru, Gary Kinsman, Adrian Jjuuko, Phyllis Waugh, Douglas Elliott, Monica Tabengwa, Gareth Henry, Kyle Scanlon, Maurice Tomlinson, Naisargi Dave, Charmaine Williams, Enakshi Dua, Jennifer Hyndman, Nick Mulé, and David Murray)	1,000,000
2009-16	Co-principal investigator, "A Small-Group Intervention to Reduce HIV Sexual Transmission Risk Behaviour Among HIV-Positive Men Who Have Sex With Men" Canadian Institutes for Health Research (with Trevor Hart (co-PI), Eleanor Matlicka Tyndale, Mona Loutfy, John Maxwell, James Murray, David Hoe, Robert MacKay, Herbert Co, and Robert Leahy)	763,658
2012-15	Principal investigator, "Trans MSM Sexual Health Study" Canadian Institutes for Health Research (with Zachary Marshall, Ayden Schelm, Syrus Ware, and Robb Travers)	99,552
2009-15	Co-principal investigator, "Center for Research Evidence into Action for Community Health in HIV/AIDS" Canadian Institutes for Health Research (with Sean Rourke (nominated principal applicant), Jean Bacon, Ahmed Bayoumi, Laurie Edmiston, Jacqueline Gahagan, Robert Hogg, Ana Johnson, Rosemary Jolly, Susan Kirkland, Marina Klein, Frank McGee, Eric Mykhalovskiy, Gerry Mugford, Stephanie Nixon, Michael Orsini, Joanne Otis, and Janice Ristock, co-PIs)	2,500,000
2009-15	Co-principal investigator, "Centre for Interdisciplinary Training and Research in HIV and AIDS" Canadian Institutes for Health Research (with Sean Rourke (nominated principal applicant), Jacqueline Gahagan, Robert Hogg, Susan Kirkland, Cynthia Patton, and Catherine Worthington, co-PIs)	1,800,000
2012-14	Co-Investigator, "La diversification des configurations relationnelles non-traditionnelles au Canada" Social Science and Humanities Research Council (with Martin Blais (PI) and Francine Lavols)	22,716
2011-14	Co-investigator, "Protective Factors Against HIV Risk Behaviour Among Gay and Bisexual Men: A Longitudinal Study" Canadian Institutes for Health Research (with Trevor Hart (PI), David Brennan, Sandra Gardner, Winston Husbands, and Ted Myers)	322,493
2011-14	Co-Investigator, "Facilitators and Barriers to Engagement in HIV health research" Canadian Institutes for Health Research (with Sean Rourke (PI), Donald Willison, Lori Chambers, and Catherine Worthington)	375,000
2011-14	Co-Investigator, "Sexual Orientation and Sexual Identity in the Legal Profession" Social Sciences and Humanities Research Council (with Audrey Kobayashi (PI), Kathleen Lahey, Ellen Faulkner, and Kevin Alderson)	172,320
2010-14	Principal investigator, "Linking Molecular and Social Cluster Analyses in HIV Transmission: Phase 1 project" Canadian Institutes of Health Research (with Greta Bauer (co-PI), James Brooks (co-PI), Vanessa Allen, Chris Archibald, Jean Bacon, Lynne Leonard, Mona Loutfy, Frank McGee, Eric Mykhalovskiy, Sean Rourke, Paul Sandstrom, Rita Shahin, and Zavare Tengra)	96,300
2012-13	Co-investigator, "Adaptation and pilot of Mano en Mano for Latino MSM" Canadian	33,000

	Institutes for Health Research (with Beatriz Alvarado (PI) and Gerardo Betancourt)	
2012-13	Co-investigator, "Cultural adaptation of Gay Poz Sex (GPS)" Canadian HIV Trials Network (with Beatriz Alvarado (PI) and Gerardo Betancourt)	49,300
2012-13	Co-investigator, "Pathways to Resiliency: An exploratory study on strength based approaches to HIV prevention and health promotion strategies amongst East and Southeast Asian MSM" Canadian Institutes for Health Research (with Alan Li (PI), Richard Utama, Maurice Poon, C Cabarios, YY Chen, James Murray, Noulmouk Sutdhibhasilp, and Josephine Wong)	33,000
2012-13	Co-principal applicant, "HIV Prevention for Gay and Bisexual Men: What do we know?" CIHR Café Scientifique Program (with Trevor Hart, nominated principal applicant)	3,000
2009-13	Co-investigator, "An HIV/AIDS Intervention in Ethiopian immigrant communities" Canadian Institutes for Health Research (with Samuel Noh (PI), Haile Fenta, Sean Rourke, Winston Husbands, Sergio Rueda, Carol Strike, Alix Adrien, and Abebe Engdasaw)	297,000
2008-13	Co-investigator, "Employment and health outcomes in HIV/AIDS" Canadian Institutes of Health Research (with Sean Rourke (PI), Sergio Rueda, Lori Lucier, Murray Jose, Alan Li, John Cairney, Jean Bacon, Winston Husbands, Kelly O'Brien, Anita Rachis, Nicole Mittmann, Robb Travers, Margaret Millson, Michael Wilson, and Patricia Solomon)	300,000
2011-12	Co-primary applicant, "Identifying Best Practices in evaluating outcome and impact of HIV prevention/health promotion interventions for culturally diverse ethno-racial communities" CIHR Centre for REACH (with Alan Li (co-PA), Nicole Greenspan, Christine Johnson, Janice Dayle, Terry Howard, Gerardo Betancourt, David Lewis, and Derek Yee)	29,150
2011-12	Collaborating applicant, "Identifying the adaptation process of two HIV prevention interventions for French speaking MSM in Quebec and English speaking MSM in Ontario" CIHR Centre for REACH (with Joanne Otis (PA), Trevor Hart (PA), Riyas Fadel, Christine Johnson, and Nicole Greenspan)	25,000
2011-12	Co-investigator, "Developing a community-based research project to understand the social and health vulnerability of LGTB Communities in Colombia" Canadian Institutes for Health Research (with Beatriz Alvarado (PI), Jaime Galindo, Gerardo Betancourt, Stevenson Fergus, and Jorge Luis Martinez)	21,610
2010-12	Co-investigator, "Project PRIDE (Promoting Resilience In Discriminatory Environments): A primary HIV prevention intervention for gay/bisexual men" Canadian Institutes for Health Research (with Nathan Smith (PI), Trevor Hart, and Martin Blais)	158,983
2010-12	Co-investigator, "Male-call Canada: An in-depth study of current and emerging issues, and the changing social and behavioural determinants related to HIV transmission among men who have sex with men" Canadian Institutes for Health Research (with Ted Myers (PI), Dan Allman, Stephen Alexander, Robert S. Remis, Martin Blais, John Maxwell, Liviana Calzavara, and Rick Marchand)	428,132

2010-11	Co-investigator, "Impact of Black CAP's modified 3MV intervention on 8MSM youth in Toronto" Ontario HIV Treatment Network (with David Lewis-Pearl (PI), Lance McCready, and David Brennan)	40,422
2008-11	Principal investigator, "Impacts of criminal prosecutions for HIV exposure and transmission on people living with HIV" Ontario HIV Treatment Network (with Richard Elliott, Patrice Corriveau, Robb Travers, and Ken English)	118,450
2009-10	Co-investigator, "Internet et santé des minorités sexuelles au Canada: usages, besoins et perspectives de développement" Canadian Institutes of Health Research (with Joseph Lévy (PI), Martin Blais, Blye Frank, Maria Mensah, Bill Ryan, and Christine Thoeer)	50,248
2008-09	Principal investigator, "Proyecto Mano en Mano: a pilot program for re-cently-arrived Latino MSM" Ontario HIV Treatment Network (with Gerardo Betancourt and Celeste Joseph)	31,529
2008-09	Principal investigator, "Development of an HIV prevention and sexual health intervention for positive men" Ontario HIV Treatment Network (with Trevor Hart, Eleanor Maticka Tyndale, John Maxwell, James Murray, David Hoe, Robert MacKay, Herbert Co, and Robert Leahy)	88,092
2008-09	Co-investigator, "HIV/AIDS CBR and Ethics Capacity Building Workshop" Canadian Institutes for Health Research (with Sean Rourke (PI), Deborah Poff, Robb Travers, Sarah Flicker, Roy Cain, Jennifer Major, and Adrian Guta)	25,000
2008-09	Co-investigator, "HIV prevention in Canada: A meta-ethnographic synthesis of current knowledge" Canadian Institutes of Health Research (with Jacqueline Gahagan (PI), Randy Jackson, Chris Archibald, Margaret Dykeman, Kim Thomas,, Tim Rogers, Ian Culbert, Judith Mill, and Tracey Prentice)	100,000
2007-09	Co-investigator, "The changing face of matrimony in Canada" Social Sciences and Humanities Research Council (with Adam Green (PI) and Tina Fetner)	74,000
2006-09	Career Scientist Award in Risk, Culture and Sexuality, Ontario HIV Treatment Network	216,000
2006-08	Co-Investigator, "Getting to know the community: Who are the black men who have sex with other men in Toronto?" Canadian Institutes of Health Research (with Winston Husbands (PI), Clemon George, Sean Rourke, Joseph Beyene, and Robert Remis)	190,220
2004-07	Principal investigator, "Rejuvenating HIV prevention for gay and bisexual men" Ontario HIV Treatment Network, (with Winston Husbands, John Maxwell, and Chris Lau of the AIDS Committee of Toronto and James Murray of the Ontario Ministry of Health and Long Term Care)	199,978
2006	Principal investigator, "MSM situation report" AIDS Bureau, Ontario Ministry of Health and Long-Term Care (with Robert Remis, Trevor Hart, and Sandra Bortolin)	21,510
2001-03	Principal applicant, "Accounting for unprotected sex among high-risk gay and bisexual men" Community-Based Research program, Health Canada (with Winston Husbands, John Maxwell, and James Murray of the AIDS Committee of Toronto)	88,119

2001-03	Principal investigator, "Negotiated safety in male couples" Canadian Strategy on HIV/AIDS, Health Canada.	84,357
1999-2001	Principal investigator, "Living with combination therapy" Ontario HIV Treatment Network (with Eleanor Maticka Tyndale and Jeffrey J Cohen)	63,000
1996-97	Summer Institute on the Social Sciences and AIDS Research (with Eleanor Maticka Tyndale and Jacqueline Murray) funded by the Social Sciences and Humanities Research Council of Canada, Health Canada, Ontario Ministry of Health, University of Windsor, University of Toronto, Macquarie University, and the University of London	131,000
1995-98	Principal Investigator, "Accounting for unsafe sex" National Health Research and Development Program, Health Canada (with Alan Sears & E Glenn Schellenberg)	74,635
1991-93	Principal investigator, "Impacts of HIV on personal, family, and work relationships" Canadian Foundation for AIDS Research (with Alan Sears)	12,475
1990	University of Windsor Research Board	500
1988	International Development Research Centre	2,400
1987	University of Windsor Research Board	981
1979-81	University of Windsor Research Board; Law Foundation of Ontario (with Kathleen Lahey)	1200

### UNIVERSITY INVOLVEMENT

2007-08	Member, Special Promotions Committee, Faculty of Arts and Social Sciences
2006-07	Member, Department of Sociology and Anthropology Head Search Committee
2005-07	Member, Awards for Excellence in Scholarship, Research and Creativity Committee
2006	Social Science Representative, Faculty of Arts and Social Sciences Dean's Search Committee
2005-06	Employment equity assessor, Faculty of Arts and Social Science Special Promotions Committee
2004-05	Employment equity assessor, Dean of Graduate Studies and Research search committee
2003	Employment equity assessor, Department of Communication Studies
2003	Member, University Review Committee on Faculty Workloads
2003	Assessor, Undergraduate Program Review Committee, Communication Studies program
2002-03	Faculty of Graduate Studies and Research representative, University Senate
2002-03	Member, Senate Academic Policy Committee and International Baccalaureate Subcommittee
2002-03	Employment equity assessor, Director of the School of Social Work search committee
2001-03	Representative, Faculty of Graduate Studies and Research Coordinating Committee, and Nominating Committee
2001-03	Chair, Departmental Graduate Committee; responsible for launch of the new PhD program in Social Justice
2001-02	Employment equity assessor, University Committee on Appointments, Promotion, and Tenure
2001	Employment equity assessor, French program
1996	Assessor, Undergraduate Program Review Committee, Mathematics and Statistics program
1995-99	Head, Department of Sociology and Anthropology
1995-99	Representative, College Arts and Human Sciences Coordinating Council
1995-98	Member, Senate Academic Planning Committee
1995-96	Employment equity assessor, Department of Earth Sciences
1994-95	Member, University Research Board
1994-95	Chair, Legal Defence Fund, a joint committee of the University and Faculty Association
1992-97	Humanities Research Group Academic Advisory Board member

1992-94	Chair, Departmental Graduate Committee; author of graduate students' handbook
1992-93	Member, Presidential Commission on Prejudice and Discrimination
1992-93	Employment equity assessor, Department of Philosophy
1991-92	Employment equity assessor, Department of Communication Studies
1991-92	Member, Senate Executive Committee and Honorary Degrees Committee
1990-92	Social Science Representative, University Senate
1989-90	Employment equity assessor, Department of French
1988-89	Chair, Departmental Graduate Affairs and Research Committee and author of departmental report to the Ontario Council on Graduate Studies
1988-89	Chair, Departmental Power and Social Change curriculum planning committee.
1988-89	Member, Graduate Support Committee, Faculty Council of Graduate Studies
1988	Member, Nominating Committee, Faculty Council of Graduate Studies
1987-89	Representative, Faculty Council of Graduate Studies
1983-87	Representative, University Senate
1985,87	Member, University Committee on Renewal, Promotion and Permanence (for the Library)
1985-89	Chair, Pro-Divestment Committee
1984-87	Chair and member, Senate Library Committee
1983-85	Representative, Faculty Association Council
1981-82	Chair, Sociology Section, Dept of Sociology & Anthropology
1981-82	Chair, Nonmonetary Contract Committee, Faculty Association
1981-82	Representative, Faculty Association Council
1980-81	Chair, Departmental Graduate Affairs and Research Committee
1978-79	Chair, Departmental Colloquia and Student Affairs Committee

### PROFESSIONAL ACTIVITIES

2003-2016	Ontario Advisory Committee on HIV and AIDS, Ontario Ministry of Health and Long-Term Care, Toronto; subcommittees on Public Health and HIV Prevention.
2012-2014	Academic lead for Ontario, National Leadership Committee of the REACH CBR Collaborative Centre.
2012-2014	Ontario HIV Treatment Network Cohort Study Scientific Steering Committee member.
2010-2014	Grant reviewer for the Gender, Sex & Health Committee of the Canadian Institutes for Health Research, Ottawa.
2010-2014	Graduate faculty status, Western University, University of Guelph, and York University.
2009-2014	Executive member, CIHR Centre in Research Evidence and Community Health in HIV/AIDS, and chair, Interventions Program of Research (2009-2012).
2009-2014	Editorial board, <i>Psychology and Sexuality</i> .
2007-2014	Editorial board, <i>Canadian Journal of Human Sexuality</i> .
2000-2014	Editorial board, <i>Sexualities</i> .
1988-2014	Editorial board, <i>Journal of Homosexuality</i> .
2014	Manuscript reviewer, <i>Canadian Journal of Human Sexuality</i> , <i>Critical Public Health</i> , <i>Culture Health and Sexuality</i> , <i>European Journal of International Relations</i> , <i>Gender Work and Organization</i> , <i>Journal of Homosexuality</i> , <i>Qualitative Health Research</i> , <i>Sexualities</i> , <i>Sociology of Health and Illness</i> , and Routledge.
2012-2013	Advisory committee for the Evaluation of CIHR's Centres for Population Health and Health Services Research Development in HIV/AIDS Program.
2010-2013	Conference organizing committee, Association for the Social and Human Sciences in HIV.
2010-2013	HIV Prevention Guidelines for African, Caribbean and Black Populations Steering Committee, African and Caribbean Council on HIV/AIDS in Ontario, Toronto.
2013	External assessor, tenure, University of Toronto.
2013	"What newly positive gay men are saying about HIV risk" Gay Men's Sexual Health Alliance webinar, Toronto.

- 2013 "Why do HIV rates remain so high among gay men?" Café scientifique at the Gladstone, Toronto.
- 2013 "HIV risk and prevention among gay, bisexual, and other men who have sex with men," Universities Without Walls, Mt Royal University, Calgary.
- 2013 "How criminalization is affecting people living with HIV in Ontario," HIV Outpatient Clinic Education Day and AIDS Committee of Toronto Research Day, Toronto.
- 2013 Manuscript reviewer for *AIDS Care*, *American Journal of Sociology*, *Anthropologica*, *Critical Public Health*, *Culture Health and Sexuality*, *Gender and Society*, *Journal of Homosexuality*, *Law & Social Inquiry*, *Men and Masculinities*, Routledge Law, *Sexualities*, *Sexually Transmitted Infections*, *Social Problems*, and Temple University Press.
- 2013 Grant reviewer for the Social Sciences and Humanities Research Council, the Canada Council, and the Leverhulme Trust.
- 2010-2012 University Without Walls Education Committee.
- 2009-2012 Correspondant étranger, *Genre, sexualité & société*.
- 2012 "HIV prevention" *Global and Mail* November 30,  
<http://www.theglobeandmail.com/commentary/letters/nov-30-blocking-drugs-for-the-poor-and-other-letters-to-the-editor/article5822752/>
- 2012 External assessor, promotion, University of Sydney, University of London, and McMaster University.
- 2012 Manuscript reviewer for *AIDS and Behavior*, Bentham Science Publishers, Cambridge University Press, *Canadian Journal of Human Sexuality*, *Culture Health and Sexuality*, *Current Anthropology*, *Digital Culture and Education*, *International Journal of Communication*, *Journal of Canadian Studies*, *Journal of Latin American and Caribbean Anthropology*, *Journal of Sexual Medicine*, *Journal of the International AIDS Society*, *Latin American Politics and Society*, *Sexually Transmitted Infections*, and Temple University Press.
- 2011 "The biomedical and the social in HIV prevention," Gay Men's Sexual Health Summit, Vancouver.
- 2011 Organizer and presider, "Social dimensions of AIDS," American Sociological Association, Las Vegas.
- 2011 "Advancing HIV intervention research in Canada" International Policy Dialogue: Reinvigorating HIV Prevention, Health Canada, Ottawa, and Southwestern Ontario Has HIV/AIDS Research Too, London, Ontario.
- 2011 Centres for Research Development in HIV/AIDS Evaluation Advisory Group, HIV/AIDS Research Initiative, Institute of Infection and Immunity, Canadian Institutes of Health Research.
- 2011 "¡Cuéntame! Conta-me! Early results from the first survey of Spanish and Portuguese speaking MSM" AIDS Committee of Toronto Research Day, Toronto.
- 2011 Panellist, "Faith, sexuality, and Tea Party politics," Mark S Bonham Centre for Sexual Diversity Studies, University of Toronto.
- 2011 "Beliefs and practices among HIV-positive people in the face of the criminalization of HIV transmission" Ontario HIV Testing Conference, AIDS Bureau, Ontario Ministry of Health and Long-Term Care and Ontario HIV Treatment Network, Toronto.
- 2011 Évaluation du projet de programme de Doctorat en Sexologie présenté par l'Université du Québec, Conférence des Recteurs et des Principaux des Universités du Québec, Montréal.
- 2011 "Risk management in male couples," Gay Men's Sexual Health Summit, Toronto.
- 2011 Manuscript reviewer for *AIDS and Behavior*, *AIDS Care*, *American Sociological Review*, *Canadian Journal of Sociology*, *Comparative Sociology*, *Culture Health and Sexuality*, *Evaluation and Program Planning*, *Future Virology*, *Journal of Acquired Immune Deficiency Syndromes*, *Journal of Contemporary Ethnography*, *Journal of Homosexuality*, *Latin American Politics and Society*, *Men and Masculinities*, *Sexualities*, *Social Science & Medicine*, and University of British Columbia Press.
- 2011 External assessor, promotion, University of Toronto.
- 2010 External assessor, promotion, University of Winnipeg.

- 2010 Co-organizer and presider, "Space, Place and the Geographies of Sexuality" and discussant, "Sexual Censorship and Sexual Controversy," American Sociological Association, Atlanta.
- 2010 Interview on *The Current*, CBC Radio 1 concerning the global state of LGBT human rights, May 21.
- 2010 "Prevention technologies in context and practice" Prevention Technologies in the Broader Spectrum of HIV Prevention, Canadian Association for HIV Research Ancillary Session, Saskatoon.
- 2010 "History of LGBT activism and health," plenary address to Rainbow Health Ontario Conference, Toronto.
- 2010 Manuscript reviewer for *AIDS and Behavior*, *Canadian Journal of Sociology*, *Canadian Review of Sociology*, *Comparative Politics*, *Culture Health and Sexuality*, *Global Public Health*, *Health Education Research*, *International Journal of Cultural Studies*, *Journal of Homosexuality*, *Journal of the History of Sexuality*, *Journal of Violence and Injury Research*, *Qualitative Research*, *Sex Roles*, *Sexualities*, *Social Identities*, *Symbolic Interaction*, and University of Toronto Press.
- 2010 External assessor, promotion, Concordia University.
- 2009 Chair, "Prevention interventions within our borders," "If you were rejected every time you disclosed, would you? Lessons learned from the HIV stigma campaign," and "Critical social science and humanities research at the front lines" Ontario HIV Treatment Network Research Conference, Toronto.
- 2009 Organizer with Alan Li and Jason Globberman, Ethno-racial MSM Research Think Tank, Toronto.
- 2009 Panellist, Author meets Critic: Political Institutions and Lesbian and Gay Rights in the United States and Canada. Author: Miriam Smith. Canadian Sociological Association, Ottawa.
- 2009 Manuscript reviewer for *AIDS Care*, *Canadian Review of Sociology*, *Comparative Studies in Society and History*, *International Journal for Equity in Health*, *International Political Science Review*, *Journal of Homosexuality*, *Psychology and Sexuality*, *Sexualities*, University of British Columbia Press, and University of Toronto Press.
- 2009 Chair, "HIV/AIDS in Its Third Decade: A Panel Discussion about Future Directions in Critical Social Science & Humanities Research" Canadian Association for HIV Research, Vancouver.
- 2009 Grant reviewer for the Research Council of the Katholieke Universiteit Leuven, Netherlands.
- 2008 Invited participant, American Foundation for AIDS Research Global Consultation on MSM and HIV/AIDS Research, Washington, DC.
- 2008 Manuscript reviewer for *AIDS and Behavior*, *AIDS Care*, *American Journal of Sociology*, *Culture Health and Sexuality*, Duke University Press, *International Journal for Equity in Health*, *Journal of Homosexuality*, *Journal of Politics*, *Revue de communication sociale et publique*, *Sexual Health*, *Sexuality Research and Social Policy*, *Social Theory and Health*, and University of British Columbia Press.
- 2008 External assessor, promotion, University of Manchester.
- 2008 Reviewer, HIV/AIDS Community-Based Research Merit Review Committee, Canadian Institutes for Health Research, Ottawa.
- 2005-2008 Cohort Study Scientific Steering Committee Social Behavioural Working Group (2006-) and Community Network Advisory Committee (2005-), Ontario HIV Treatment Network, Toronto.
- 2002-2008 Chair, Social Science Track and Executive Committee member, Scientific Review Committee spring competitions, Ontario HIV Treatment Network, Toronto.
- 2006-2008 HIV Testing Campaign Working Group and Gay Men's Sexual Health Alliance, Ontario Ministry of Health and Long-Term Care, Toronto.
- 2006-2007 Membre expert-évaluateur au comité, "Les dimensions sociales et psychosociales des ITSS" des Actions concertées du Fonds québécois de la recherche sur la société et la culture, Montréal.
- 2004-2007 Section 1 Appraisal Committee, Ontario Council on Graduate Studies, Toronto (chair, 2006-2007).
- 2007 Reviewer, National HIV/AIDS Knowledge Exchange Fund, Public Health Agency of Canada, Ottawa.
- 2007 Manuscript reviewer for *Canadian Journal of Human Sexuality*, *Culture Health & Sexuality*, Duke University Press, *International Journal of Men's Health*, *Journal of Homosexuality*, New York University Press, Routledge, *Social Problems*, *Sexualities*, and *Sociological Quarterly*.



- 2003-2006 Aid to Scholarly Publications Committee, Canadian Federation for the Humanities and Social Sciences.
- 2003-2006 Secondary HIV Prevention Strategy Working Group and HIV Behavioural Surveillance Working Group, AIDS Bureau, Ontario Ministry of Health and Long-Term Care, Toronto.
- 2001-2006 Grant reviewer for the Social Sciences and Humanities Research Council.
- 2006 External assessor, tenure and promotion, San Francisco State University.
- 2006 Co-chair, "What is working (or not) for HIV prevention among MSM?" International AIDS Conference, Toronto.
- 2006 Organizer and chair, "Gay, lesbian, bisexual and transgender studies" and discussant, Thematic Session on "Sexualities, Borders, and Boundaries," American Sociological Association, Montréal.
- 2006 Invited participant, M-Track HIV Surveillance System, Public Health Agency of Canada, Ottawa.
- 2006 Invited participant, Federal Initiative to Address HIV/AIDS on population-specific approaches, Public Health Agency of Canada, Toronto.
- 2006 Manuscript reviewer for *AIDS*, *Canadian Journal of Communication*, *Canadian Journal of Human Sexuality*, *Culture Health & Sexuality*, *Journal of Health Psychology*, *Journal of Homosexuality*, *Sexualities*, *Social Movement Studies*, *Social Politics*, *Sociological Perspectives*, and Routledge.
- 2006 Grant reviewer for the Fonds québécois de la recherche sur la société et la culture.
- 2003-2005 Education and Prevention Working Group, Priority Advisory Committee, Ontario HIV Treatment Network, Toronto.
- 2002-2005 Chair-Elect, Chair, and Past Chair, Sociology of Sexualities Section of the American Sociological Association; Chair, Nominations Committee; Chair, Simon-Gagnon Award Committee.
- 2000-2005 Board member, Community-Based HIV Research Website, sponsored by Health Canada, Vancouver.
- 2005 External assessor, tenure and promotion, University of New South Wales; tenure, University of Saskatchewan; promotion, Seattle University.
- 2005 Grant reviewer for the Canadian Foundation for AIDS Research.
- 2005 Panellist, "The Significance of Sociology for the HIV/AIDS Pandemic," American Sociological Association, Philadelphia.
- 2005 Chair, "Sexualities, Identities" I, II, and III sessions, Canadian Sociology and Anthropology Association, London, Ontario.
- 2005 Manuscript reviewer for *AIDS Care*, *Culture Health & Sexuality*, *Journal of Homosexuality*, *Medical Anthropology*, *Sexualities*, *Social Problems*, *Sociological Perspectives*, *The Lancet*, Routledge, and the University of Toronto Press.
- 2004 Grant reviewer for the U.S. National Science Foundation.
- 2004 Juror, Martin Levine award for the best PhD dissertation proposal in sexuality, American Sociological Association.
- 2004 Panellist, "What do sociologists have to say about same-sex marriage?" and discussant, "Sexualities and Law" session, American Sociological Association, San Francisco.
- 2004 External assessor, tenure and promotion, University of Florida.
- 2004 Discussant, "Sociological Theories: Theorizing Body and Self" and "Sociological Theories: Social Justice" sessions, Canadian Sociology and Anthropology Association, Winnipeg.
- 2004 Manuscript reviewer for *AIDS Care*, *American Sociological Review*, *Canadian Journal of Sociology*, *Gender and Society*, *Socialist Studies*, *Sociological Perspectives*, and Lynne Rienner Publishers.
- 2004 External reviewer, University of Waterloo program in Sexuality, Marriage and the Family.
- 2003 External assessor, promotion to full professor, Laurentian University.
- 2003 Immunization Awareness group, Canadian Network for Vaccines and Immunotherapeutics, Toronto.
- 2003 Panellist, Rainbow Visions conference, Montréal.
- 2003 Rapporteur for the Social Science Track, Canadian Association for HIV Research, Halifax.
- 2003 Manuscript reviewer for *Canadian Review of Sociology and Anthropology*, *Research in Political Sociology*, *Social Problems*, and *Sociological Quarterly*.

- 2002 Plenary academic lecture, Canadian Sex Research Forum, Toronto.
- 2002 Panellist, Boundaries: Genders Colloquium, Humanities and Social Science Federation of Canada, Toronto.
- 2002 Discussant, "Mapping global networks of power" Canadian Anthropology Society, Windsor.
- 2002 Manuscript reviewer for University of Toronto Press, New York University Press, Lynne Rienner Publishers, *Canadian Review of Sociology and Anthropology*, *Journal of the History of Behavioural Sciences*, *Sexualities*, *Social Problems*, *Sociological Inquiry*, *Sociological Perspectives*, and *Torque*.
- 2002 Guest lecture to the Centre for Interdisciplinary Gender Studies, University of Leeds.
- 2001, 2002 Presenter, National Meetings of Canadian Researchers in the Field of Gay, Lesbian, Bisexual and Two-Spirit People's Health, McGill University, Montréal.
- 2001-2002 Grant reviewer for the Ontario HIV Treatment Network, and the Positive Action Fund of the AIDS Bureau, Ontario Ministry of Health and Long-Term Care, Toronto.
- 2001 Guest lecture to the Institute for Research on Women and Gender, University of Michigan at Ann Arbor.
- 2001 External assessor, tenure review, Ontario Institute for Studies in Education, University of Toronto.
- 2001 Invited participant, Ontario Advisory Committee on HIV/AIDS, Toronto.
- 2001 Keynote address, first international meeting on Sexual Orientation and Mental Health, sponsored by the American Psychological Association and the Association of Lesbian, Gay, and Bisexual Psychologies of Europe with the co-sponsorship of the Australian, Brazilian, British, Colombian, Netherlands, and Swiss psychological associations, San Francisco.
- 2001 Manuscript reviewer for the University of Toronto Press, *Canadian Journal of Sociology*, *Mobilization*, *Social Science and Medicine*, *Social Problems*, *AIDS and Behavior*, *Journal of Homosexuality*, and *Sociological Perspectives*.
- 2001 Invited participant, Bureau of HIV/AIDS, STD and TB, Centre for Infectious Disease Prevention and Control, Population and Public Health Branch, Health Canada, Ottawa.
- 2000-2001 Advisory Board member, Sexuality Studies series, University of British Columbia Press.
- 1999-2001 Member, National Reference Group on a Renewed HIV Prevention Strategy for Gay Men, sponsored by the HIV/AIDS Policy, Coordination and Programs Division, Health Canada. Final report: *Valuing Gay Men's Lives: Reinvigorating HIV Prevention in the Context of Our Health and Wellness*. [www.gaycanada.com/glhs/ValGayMen.pdf](http://www.gaycanada.com/glhs/ValGayMen.pdf).
- 2000 Chair and discussant, "Making citizenship claims on the culture and the state," The Future of the Queer Past conference, University of Chicago.
- 2000 External assessor, promotion to professor and institute chair, University of Leeds.
- 2000 Guest lectures to the Center for Cultural Studies and the Department of Sociology, University of California at Santa Cruz; Department of Sociology, San Francisco State University; Center for AIDS Prevention Studies at the University of California at San Francisco, and the Bay Area Sexuality Research Seminar, San Francisco.
- 2000 Manuscript reviewer for *Social Problems*, *Sexualities*, *Culture Health & Sexuality*, *Torque*, *Journal of Homosexuality*, *Canadian Review of Sociology and Anthropology*, University of Chicago Press, and Broadview Press.
- 2000 Reviewer for Social Science and Humanities Research Council of Canada, Ontario HIV Treatment Network, and Fonds pour la Formation de Chercheurs et l'Aide à la Recherche du Québec.
- 1999-2000 Presenter, Agenda Building Meetings on HIV Prevention Research, HIV Prevention and Community Action Programs, Health Canada, Ottawa.
- 1998-2000 Member, NHRDP HIV/AIDS Extramural Research Program Peer Review Committee.
- 1999 Invited participant, Research workshop, Canadian AIDS Society, Toronto.
- 1999 Invited participant, National Stakeholders Consultation for the Community-Based Research Program, National Health Research and Development Program of Health Canada, Victoria.
- 1999 Chair and author of first draft, Department of Sociology and Anthropology Five Year Plan.

- 1999 Manuscript reviewer for Temple University Press, Cambridge University Press, Oxford University Press, *Critical Sociology*, *Canadian Review of Sociology and Anthropology*, *Canadian Journal of Education*, *International Journal of Canadian Studies*, and *Gender and Society*.
- 1998-99 Research community representative, Ontario HIV Prevention Project, AIDS Bureau, Ontario Ministry of Health.
- 1998 External assessor, promotion to associate professor, University of British Columbia and University of Louisville.
- 1998 Manuscript reviewer for the University of Toronto Press, Temple University Press, Blackwell Publishers, *Journal of Marriage and the Family*, *Journal of American History*, *Sexualities*, and *Journal of Homosexuality*.
- 1997 Discussant, "Culture and Imperialism" Culture, Politics & Peace: A Conference to Honor the Contributions of Professor Edward W Said. Windsor, Ontario.
- 1997 Session organizer, "Responses to globalization in Islamic nations" Canadian Sociology and Anthropology Association and Society for Socialist Studies, St John's, Newfoundland.
- 1997 Manuscript reviewer for the University of Toronto Press, University of Chicago Press, Temple University Press, *Sociological Perspectives*, *Canadian Review of Social Policy*, *Journal of the History of Sexuality*, *Journal of Homosexuality*, *Mobilization*, *Gender and Society*, and *Critical Sociology*.
- 1997 External assessor, promotion to full professor, Indiana University
- 1996-97 Editorial Board, *Journal of the History of Sexuality*.
- 1992-97 Grant reviewer for Health and Welfare Canada's National Health Research and Development Program and for SSHRCC.
- 1996 External assessor, promotion to full professor, University of California at Santa Cruz
- 1996 Commentator for Canadian HIV-AIDS Legal Network workshop, Montréal.
- 1996 Juror, Gregory Sprague Prize and Audre Lorde Prize, awarded by the American Historical Association Committee on Lesbian and Gay History
- 1996 Juror, Michael Lynch History Grant, awarded by the Toronto Centre for Lesbian and Gay Studies
- 1996 Manuscript reviewer for Columbia University Press, *Critical Sociology*, *Health and Canadian Society*, *Masculinities*, *Journal of Homosexuality*, *Sociologie et Sociétés*.
- 1995 Manuscript reviewer for *Health and Canadian Society*, *Masculinities*, *Gender and Society*, *Journal of the History of Sexuality*, *Canadian Historical Review*, McGraw Hill, University of Minnesota Press, and Columbia University Press.
- 1994 "The gap between the precept and the actual practice of academic freedom" *CAUT Status of Women Supplement*, p. 6.
- 1994 Manuscript reviewer for Routledge, *Medical Anthropology*, *Social Problems*, *Journal of the History of Sexuality*, *Windsor Yearbook of Access to Justice*, and *Canadian Review of Sociology and Anthropology*.
- 1994 Guest lecture, Bowling Green State University.
- 1992-94 Chair (1993-94) and Juror, John Porter Award Committee, Canadian Sociology and Anthropology Association.
- 1993 Guest lecture: McMaster University.
- 1993 Juror for best student paper award sponsored by the Sexual Behavior, Politics & Community Division of the Society for the Study of Social Problems.
- 1993 Manuscript reviewer for the *Journal of Contemporary Ethnography*, *Canadian Review of Sociology and Anthropology*, *Social Problems*, and the *Journal of Homosexuality*.
- 1990-93 Associate Editor, *Social Problems*.
- 1992 Guest lecture: University of Chicago.
- 1992 "Statement of professional ethics" *Society/Société* 16 (3):24-30.
- 1992 "Increasing the media profile of sociology and anthropology" *Society/Société* 16 (2):31-32.
- 1992 Manuscript reviewer for: SSHRCC, Columbia University Press, *Social Problems*, Temple University Press, and University of Toronto Press.

- 1992 Roundtable leader, "Problems and controversies in developing a code of ethics," Canadian Sociology and Anthropology Association, Charlottetown.
- 1989-92 Chair, Committee on Professional Ethics and Executive Committee member, Canadian Sociology and Anthropology Association; author of the CSAA Statement of Professional Ethics.
- 1988-92 Fellow, Centre for Research on Latin America and the Caribbean, York University.
- 1988-91 Manuscript reviewer for *Social Problems*, *Canadian Review of Sociology and Anthropology*, *Between the Lines*, *Studies in Political Economy*, and Indiana University Press.
- 1988-91 Inter/national media commentary: CBC TV Vancouver, "Newscentre Forum" on the civil rights of gay people (1988); CNN news on border-crossing problems of HIV-positive people (1990), CBC Halifax, "Media File" on TV news coverage of Nicaragua (1991).
- 1978-90 In addition,  
 —Invited participant in the American Sociological Association workshop on researching AIDS, Miami, 1989.  
 —Invited participant, Nicaraguan Institute for Economic and Social Research, Managua, 1986.  
 —Guest lecturer, Glendon College, York University and the University of Michigan at Ann Arbor.  
 —Program organizer (with M.L. Dietz) of the Canadian Sociology and Anthropology Association meeting with the Learned Societies of Canada in Windsor, 1987-88.  
 —Representative with the Centre for Research on Latin America and the Caribbean at York University at a workshop of a seven-nation consortium of social science research institutes on "Organizations of community power and grassroots democracy in Central America and the Caribbean," 1987.  
 —"The Cameron case" *Footnotes* (of the American Sociological Association) 15 (1986, 1):4.  
 —Academic panellist for Selection Board, Ontario Graduate Scholarships, 1986, 1989.  
 —Manuscript reader for *Canadian Review of Sociology and Anthropology*, *Social Problems*, *Reflections: Essays in Phenomenology*, *Journal of Homosexuality*, *Canadian Journal of Sociology*, *Social Psychology Quarterly*, Alyson Publishers and Temple University Press.  
 —Panellist for the American Anthropological Association, American Society of Criminology, Society for the Study of Social Problems, and Sociologists for Women in Society.  
 —Session chair or discussant for Society for the Study of Social Problems, American Sociological Association, Association for Humanist Sociology, Canadian Sociology and Anthropology Association, Canadian Communication Association, Ontario Cooperative Program for Latin American and Caribbean Studies, and the Whitman - Brooks Conference.  
 —Reviewer for Social Sciences and Humanities Research Council.

### SERVICE TO THE COMMUNITY

- 2010 Expert witness, Ministry of the Attorney General, Constitutional Law Branch, in *Quesnelle v. Da Silva*, Toronto.
- 2009 Expert witness, *Canadian Blood Services v. Kyle Freeman*, Ontario Superior Court of Justice, Ottawa.
- 2008 "How well are our schools educating youth for a world of HIV risk?" Annual General Meeting, AIDS Committee of Windsor.
- 2008 HIV prevention research training for staff of the Canadian HIV Treatment Information Exchange, Toronto.
- 2007 "Human trials: Testing the AIDS vaccine," community forum sponsored by the AIDS Committee of London.
- 2007 "HIV prevention through the eyes of positive and negative men," community forum sponsored by the AIDS Committee of Windsor.
- 2004 Community forum and launch of new "Assumptions" HIV prevention program sponsored by the AIDS Committee of Toronto.
- 2003 "Renewing HIV Prevention for Gay and Bisexual Men," Community Forum sponsored by the AIDS Committee of Toronto.

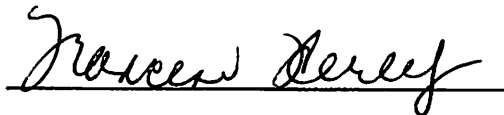
- 2003 Expert witness, Hislop et al v. Attorney General of Canada, Ontario Superior Court of Justice, Toronto.
- 2003 Expert witness, DB v. Middlesex-London Health Unit, Health Services Appeal and Review Board, London, Ontario.
- 2002 Expert witness, George Smitherman and Marc Hall v. Michael Powers and the Durham Catholic District School Board, Ontario Superior Court of Justice, Toronto.
- 2000-02 Expert witness, Hedy Halpern, Colleen Rogers, et al v. the Attorney General of Canada, the Attorney General of Ontario, and the Clerk of the City of Toronto in the Ontario Superior Court of Justice, and expert witness, Dawn Barbeau and Elizabeth Barbeau, Peter Cook and Murray Warren, Jane Hamilton and Joy Masuhara v. Attorney General of British Columbia and the Attorney General of Canada in the Supreme Court of British Columbia.
- 2001 Expert witness, Mark Schnell v. Machiavelli & Associates, Canadian Human Rights Commission, Vancouver.
- 2000 Presenter, Community Forum on the Rise of HIV Infections Among Gay Men, sponsored by the AIDS Committee of Toronto, Asian Community AIDS Services, and Black Coalition for AIDS Prevention, Toronto.
- 1999 Expert witness, Ray Brillinger and the Canadian Lesbian and Gay Archives v. Scott Brockie and Imaging Excellence Inc., Ontario Human Rights Commission Board of Inquiry, Toronto.
- 1994-99 Board member, Foundation for Equal Families.
- 1985-99 AIDS Committee of Windsor: President, 1987-88; Chair of Planning Committee, 1988-89; Chair of Education and Research Program, 1986-87; Medical and social researcher, 1988-94; Chair of Resource Centre Working Group, 1990-93; Volunteer trainer, 1987-96; Research Committee, 1999; numerous speaking engagements on social and medical aspects of AIDS and AIDS in the workplace.
- 1992 Expert witness, Glad Day Bookshop v. Deputy Minister of National Revenue for Customs and Excise, Ontario Provincial Court.
- 1990-93 Chair, Working Group on AIDS and Development, a joint project of the Third World Resource Centre and the AIDS Committee of Windsor; sponsor of two South African placement workers for ten weeks in Windsor.
- 1989 Expert witness, Michigan Organization for Human Rights v. Attorney General of the State of Michigan and Wayne County Prosecuting Attorney, Wayne County Circuit Court.
- 1987-89 Board member, Third World Resource Centre.
- 1988 Expert witness, Karen Andrews, Mary Trenholm and the Canadian Union of Public Employees #1996 v. the Ontario Ministry of Health and Attorney-General, Ontario Supreme Court.
- 1988 Public lectures on AIDS to the Children's Aid Society of Windsor, the Association of Professional Social Workers, Sarnia, and the Community Service Order Co-ordinators Association of Ontario, Chatham.
- 1986 Member of Speaker Referral Service, Ontario Public Education Panel on AIDS, Ontario Ministry of Health.
- 1985 Chair of session, "Sexual Identity" Ontario Youth Symposium, Windsor, Ontario.
- 1981 Expert witness, Regina v. Franco, Ontario Provincial Court, Toronto.

THIS IS EXHIBIT "B" REFERRED TO IN THE

AFFIDAVIT OF BARRY ADAM

SWORN BEFORE ME AT WINDSOR

THIS 2<sup>ND</sup> DAY OF APRIL, 2014

A handwritten signature in cursive script, reading "Francine Herlehy", written over a horizontal line.

A COMMISSIONER FOR TAKING AFFIDAVITS IN ONTARIO

Francine Herlehy

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This is the 1<sup>st</sup> Affidavit  
of Ellen Faulkner in this case  
and was made on 09/04/2014

No. S-142908  
VANCOUVER REGISTRY

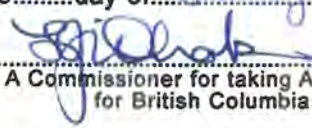
**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**BETWEEN:**

This is Exhibit "D" referred to in the  
affidavit of Tracy Tso  
sworn before me at Vancouver  
this 16 day of January 2015

TREVOR JAMES LOKE

**PETITIONER**

  
A Commissioner for taking Affidavits  
for British Columbia

- and -

MINISTER OF ADVANCED EDUCATION OF BRITISH COLUMBIA

**RESPONDENT**

**AFFIDAVIT #1 OF ELLEN FAULKNER**

I, ELLEN FAULKNER, Sociologist, of the City of Prince George, in the Province of  
British Columbia, MAKE OATH AND SAY AS FOLLOWS:

**AREAS OF EXPERTISE AND QUALIFICATIONS**

1. I am a Professor of Sociology and Criminology at the College of New Caledonia, located  
in Prince George, British Columbia and I formerly taught as a Professor at Okanagan College in  
Kelowna, British Columbia in the Department of Interdisciplinary studies there. I obtained my  
Master's degree in Sociology from Queen's University in 1991 and my Ph.D. in Sociology and  
Equity Studies in Education at the University of Toronto in 1999. Attached to this my Affidavit  
and marked as Exhibit "A" is a copy of my Curriculum Vitae which gives further details on the  
work that I have done.

2. I have published and researched in the field of discrimination and the harm caused by it from a sociological perspective over many years. I have been retained to do research for an anti-violence project concerned particularly with gays and lesbians for the Department of Justice (Canada). I have done research for the same Department of Justice (Canada) on the effects of hate propaganda. I have made the lesbian and gay community a focus of a good deal of my research over the years and, in particular, a study on the question of sexual orientation and gender identity in the legal profession (2008), which had as a significant part of its scope the issue of discrimination and the harm done by it. I have written articles on homophobia and the effects of such discrimination in Canada.

3. I was accepted as an expert witness in the case of *M. v. H.*, [1996] O.J. No. 4419 a ground-breaking legal case involving a constitutional challenge to the *Family Law Act (Ontario)* which established that the definition of spouse in s.29 of the *Family Law Act* should be changed to “two persons” instead of a man and a woman.

4. An understanding of discrimination against gays and lesbians and the study of the harm caused by such discrimination is an important part of my work both in presentations, conferences, and in my teaching. In particular, discrimination against gays and lesbians and the harm that is caused thereby has been an important part of the following courses which I have taught to undergraduates: Introduction to Women’s Studies (College of New Caledonia, 2013 and Okanagan College, 2012); Deviance and Social Control (College of New Caledonia, 2014 and Brock University, 2004-2006); Women, Crime and Justice (Okanagan College, 2012); Psychological Explanations of Criminal Behaviour (Okanagan College, 2012); Violence in Society (Ryerson University, 2010); Victimology (Brock University, 2004-2006; St. Thomas University, 2002-2003 and University of Windsor, 2000-2001); Advanced Issues in Law and Society (Brock University, 2004-2005); Special Topics: Hate Crime (St. Thomas University, 2003); Women and the Law (University of Windsor, 2001); Introductory Qualitative Research Methods (University of Windsor, 2001); Law and Society (University of Windsor (2000-2001); Sociology of Youth Crime (University of Calgary, 2000); Introduction to Deviance and Social

Control (University of Calgary, 1999); and Intermediate Qualitative Research Methods (University of Calgary, 1999).

## **INSTRUCTIONS IN RELATION TO THIS PROCEEDING**

5. I have been requested by the Petitioner in the above matter to provide my opinion on the following questions in light of my expertise in the area of sociology: (i) Does requiring acceptance of Trinity Western University Community Covenant cause harm to gay and lesbian students? (ii) Would being excluded from Trinity Western University's law school cause harm? (iii) What is the status of gays and lesbians in the legal profession?

6. I certify that I am aware of my duty to assist the court and not to be an advocate for any party; that I have made the Affidavit in conformity with this duty; and that if I am called to give oral or written testimony, that testimony will be given in conformity with this duty.

7. I have read the Community Covenant which Trinity Western University requires all perspective students to sign, accept and adhere to as a condition of study at the University regardless of academic qualifications. A copy of the Covenant is attached hereto as Exhibit "B". I note that though all pre-marital sex is ostensibly banned at Trinity Western University, students who are married can have sex unless they are gay and lesbian.

## **OPINION**

8. From a sociological perspective, prejudice has to do with the inflexible and irrational attitudes and opinions held by members of one group about another, while discrimination refers to behaviours directed against another group. Negative forms of prejudice can lead to discrimination. Discrimination is the prejudicial treatment of an individual based on their actual or perceived membership in a certain group or category. By this definition, the requirement of adherence to the Community Covenant is discriminatory.

## **I. Does Requiring Acceptance Of The Covenant Cause Harm To Gay And Lesbian Students?**

9. The research shows that discrimination against gays and lesbians<sup>1</sup> starts very early in the educational system. There is widespread discrimination across the educational system from public, to high school and in the university system. Such students are therefore already vulnerable. By asking gays and lesbians to sign a Covenant the university is perpetuating this discrimination and causing the kinds of harms we see in studies of gay and lesbian discrimination, such as these that follow. This leads to a number of harms from outright victimization to closetry and isolation.

10. It is my opinion that signing the Covenant may cause harm to gay and lesbian students in the following ways.

### **A. Closetry**

11. Signing the Covenant would push gays and lesbians back into the closet because they cannot be out in a context in which heterosexuality is valued and promoted to the exclusion of gay and lesbian existence. Closetry is difficult to maintain and takes a significant amount of energy and is potentially damaging. Maintaining an image that aligns with the terms of the Covenant may lead to anxiety, hyper-vigilance, hiding and self-censorship. Denial of oneself can lead to depression which may impact upon a student's ability to study and engage with the Trinity Western University community. Verbal threats and harassment may be imposed upon those who are seen to cross the line. This type of attack is meant to send a message to those who violate the moral code.

12. Gay and lesbian students may sign the covenant without agreeing to its terms because they may feel limited in terms of their options to obtain access into a Canadian law school. The

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<sup>1</sup> As well as LGBTQ persons (lesbian, gay, bisexual, transgendered and queer persons), more broadly.

resulting harm is that LGBTQ applicants would need to hide their identity, viewpoints, religious values, political values, family values and their understanding of definitions of equality from the Trinity Western University community. Essentially LGBTQ students would be living a lie in order to obtain a degree, much like LGBTQ's must live a lie in order to 'pass' and get along in the heteronormative world. If one does not pass – essentially assimilate – into the Trinity Western University community, a LGBTQ student could be 'outed', with potential dire consequences such as discipline, shaming, ostracization, isolation, stigmatization and ultimately expulsion.

13. In signing the Covenant, LGBTQs at Trinity Western University would be required to be heavily closeted so as not to risk discipline and punishment. Research into the effects of closetry on sexual minorities shows that living a covert lifestyle due to fear may have long-term consequences. Some may never accept who they are, suffer from lower self-esteem and may not be able to readily overcome shame or feelings of self-blame in the event that they are victimized (Garnets, 1993). If physically assaulted, the psychological aftermath of victimization may include depression, traumatic stress, anxiety, and anger as well as behavioural and somatic symptoms such as headaches, nightmares, crying, agitation and restlessness, weight-loss, increased use of drugs and alcohol, and deterioration in personal relationships (Stermac and Sheridan 1993:34). Some clinicians have reported incidents of Post-Traumatic Stress Disorder among victims (Garnets, Herek, and Levy 1990; 1992). Further, "the effects of these symptoms are known to seriously impair psychological functioning and mental health and produce a marked effect on an individual's life. As members of an already stigmatized group, LGBTQs may experience the additional consequence of complete or partial suppression of their gay or lesbian identity and lifestyle following victimization" (Stermac and Sheridan 1993:34).

### **B. Victimization**

14. Signing the Covenant and living according to the Trinity Western University community standards may put gays and lesbians at risk for victimization. Trinity Western University is a microcosm of the wider social context in which homophobia exists. The Covenant makes it plain that gays and lesbians and their lifestyle is not acceptable. Within this context anyone who seems

to violate Trinity Western University's moral code could be subject to attack. Those who perceive they have been attacked due to their sexual orientation are more likely to "regard the world as unsafe, to view people as malevolent, and to have a low sense of personal mastery" (Herek, Gillis, Cogan 1999:949). This finding has implications for therapeutic intervention and the length of time needed for recovery from verbal or physical attacks.

15. Schools (elementary, high school, college, and university) are potentially dangerous places for lesbian and gay youth. Canadian participants gave examples of discrimination, anti-gay/lesbian attacks or harassment while they attended school including attacks from fellow-students and from friends at school. Adult participants gave examples of teachers and administrators not taking a stand against discrimination (Faulkner, 2008). Adult gay and lesbian participants were physically attacked, verbally harassed, threatened with death, attacked by those who believed in 'family values,' bullied, subject to harassment, isolation and gossip, etc. The effect has been sadness, loneliness, pessimism, dropping out of school, and the development of Social Anxiety Disorder (Faulkner, 2008). Students in the elementary and high school systems also experience these forms of discrimination (Taylor and Peters, 2011). The effect of this discrimination is that gay and lesbian students experience school systems as hostile school environments in which they experience a climate of fear. Gay and lesbian students experience emotional distress, suicidal ideation, lack of personal safety at school, and isolation with the result that they develop ways of coping that jeopardize their success in educational systems such as skipping and dropping out of school (Taylor and Peters, 2011). These patterns of victimization in the research suggest that gays and lesbians experience discrimination across educational systems and this discrimination is no less likely to exist in the Trinity Western University university environment.

16. Homophobia is rampant at Canadian schools. A Canadian National study based on a survey of 3,700 Canadian public and high school students conducted between December 2007 and June 2009 found that homophobia, biphobia and transphobia is experienced in many school contexts (Taylor and Peters et al, 2011).<sup>2</sup> Participants indicated they had experienced verbal,

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<sup>2</sup> The study involved surveying over 3700 students from across Canada between December 2007 and June 2009 through two methods. The first method was designed to reach as many sexual and gender minority youth as

physical and sexual harassment within contexts in which there were little attempt to provide safe spaces or safer school policies for victimized youth. Students indicated that they often feel unsafe at school and missed school because of these feelings. While some students indicated they reported the assaults against them, others indicated they were unaware of a single member of the school staff who were supportive of gay and lesbian students.

17. Findings from the First Canadian National Climate Survey on Homophobia, Biphobia and Transphobia in Canadian Schools (Taylor and Peters et al 2011) show that:

- Students feel unsafe in school environments: Almost two thirds (64%) of gay and lesbian students and 61% of students with gay and lesbian parents reported that they feel unsafe at school. 78% of trans students feel unsafe at school, with 44% having missed school because of these feelings.
- Canadian students are physically harassed and assaulted due to their sexual orientation: 21% of gay and lesbian students reported being physically harassed or assaulted due to their sexual orientation.
- Canadian students are physically harassed and assaulted due to their gender expression: 37% of trans students, 21% of sexual minority (gay and lesbian) students and 10% of non-gay and lesbian students reported being physically harassed or assaulted because of their gender expression.
- Transgendered students experience far more sexual and verbal harassment than gay and lesbian students: 49% of trans students have been sexually harassed in school within the past year. 74% of trans students have been verbally harassed because of their gender expression.
- Gay and lesbian students have limited support systems within educational systems: 30% of sexual minority female, 24% of sexual minority male and 40% of trans

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possible: students who self-identify as lesbian, gay, bisexual, trans, Two Spirit, queer, or questioning (LGBTQ). To this end, we implemented an open-access online survey and advertised it widely through news releases and website and Facebook notices and by systematically contacting every organization across the country that we identified as having LGBTQ youth membership. The second method was implemented in controlled conditions using a login system through in-school sessions conducted in twenty randomly selected school districts in all regions of the country (with the exception of Québec where a parallel survey was conducted by Québec researchers). Fifteen school districts participated in sufficient numbers to permit statistically significant analysis. In-school findings were used to validate open-access findings. This report analyzes the aggregate data from both individual online participation and in-school sessions. In addition, we have submitted confidential reports to all participating boards that held in-class sessions comparing their own results to the results from all in-school sessions. Catherine Taylor and Tracey Peters. 2011. "Every Class in Every School: Final Report on the First National Climate Survey on Homophobia, Biphobia and Transphobia in Canadian Schools. Toronto: Egale Human Rights Report. Online: <http://egale.ca/all/every-class/>



students were unaware of a single member of school staff who were supportive of gay and lesbian students.

18. The national study by Taylor and Peters reveals that school environments are hostile climates for gay and lesbian youth in Canada (Taylor and Peters et al, 2011). Taylor and Peter's research conducted for Egale Canada found that gay and lesbian students experience emotional distress, fear, for their safety, lack of social connectedness and isolation resulting in closetry, and skipping and dropping out of school. The impact of breaks in education due to an unsafe learning environment jeopardize student accomplishment and continuation in the educational system (Taylor and Peters, 2011).

19. Many gay and lesbian students experience emotional distress and anxiety in Canadian educational institutions. The First National Climate Study found that 85.5% of gay and lesbian students experienced emotional distress in public and high school environments. As bystanders non-gay and lesbian students (58.3%) also experienced some form of distress. Research into the psychological impact of repetitive exposure to bullying suggests that bystanders may suffer long term depression, anxiety, feelings of helplessness, somatic complaints, and skipping school (Janson, Carney, Hazler and Oh, 2009). "Further, some research suggests that the experience of cognitive dissonance that arises from failing to intervene when abusive behavior is occurring puts bystanders at risk of some forms of psychological harm that actually exceeds the levels found in direct victims (Rivers, Poteat, Noret, and Ashurt, 2009)" (Taylor and Peter, 2011:74). According to Taylor and Peter, "The distress experienced by heterosexual students supports the position held by many educators that homophobic comments poison the school climate for everyone because they are an assault on human dignity" (Taylor and Peters, 2011: 74). Further, while some bystanders in their study reacted by rationalizing that the victim deserved it, "the finding that 58% of heterosexual students are distressed by homophobic comments suggests that there may be a great deal of untapped solidarity for LGBTQ students among their non-LGBTQ peers" (Taylor and Peters, 2011: 74).

20. Gay and lesbian students identify areas of Canadian public and high schools to be unsafe spaces and coordinate their daily activities in accordance with their knowledge of potential

situations where they will be outed or attacked (Taylor and Peters et al, 2011: 78). “LGBTQ participants were most likely to identify their Phys. Ed. Change rooms as being unsafe (48.8%), followed by washrooms (43.1%), and hallways (42.5%). Slightly over half as many non-LGBTQ participants identified these spaces as unsafe for LGBTQ students (30.1%, 27.8%, and 25.1%) respectively” (Taylor and Peters et al, 2001: 78). Thus, hallways, classrooms, and physical education areas are particularly common sites of homophobic harassment. This finding is consistent with American studies on discrimination faced by gay and lesbian youth which found that hallways, classrooms, and physical education areas are particularly common sites of homophobic harassment (Bochenek and Brown, 2001; Lipson, 2001; GLSEN, 2007).

21. A great many students feel unsafe at school for a variety of reasons, not just gay and lesbian students (Taylor and Peters et al 2011: 84). While educators are responsible for protecting the students entrusted to their care through ant-bullying initiatives “it is often difficult for teachers and other school staff to know who is experiencing school as an unsafe place and why” (Taylor and Peters et al, 2011: 84). Feelings of lack of personal safety may lead to skipping or dropping out of school, increased levels of anxiety, trauma, and feelings of low self worth. The First National Climate Study found that almost two-thirds (64.2%) of LGBTQ participants feel unsafe at school, compared to fewer than one-sixth (15.2%) of non-LGBTQ respondents” (Taylor and Peters et al 2011: 85). Transgendered students (78.0%) revealed even higher percentages of feeling unsafe in school compared to just over three-fifths (62.8%) of sexual minority students (Taylor and Peters et al, 2011:85). The First National Climate Study findings are consistent with the McCreary Centre study, which found that 82% of lesbian youth versus 60% of heterosexual girls sometimes feel unsafe and that 70% of gay boys sometimes feel unsafe versus 58% of heterosexual boys (Saewyc et al 2007). “In the GLSEN report on trans youth, similar results were found, with 82% of trans students feeling unsafe compared with 67% of female LGB students (Greytak, Kosciw, and Diaz, 2009)” (Taylor and Peters et al, 2011: 85). Taylor and Peters also found that female sexual minority youth and students of LGBTQ parents experienced a surprisingly higher level of feeling unsafe compared to their counterparts. Overall, the findings strongly suggest that “whether one is female, male, or trans makes a big difference with respect to how safe one feels” (Taylor and Peters et al, 2011: 86).

22. Many gay and lesbian students indicate that they skip school due to fear for their safety. This indicates students experience a high level of fear. Missing school may have a potential impact on the academic performance of these students. The first Canadian national study found that 30.2% of gay and lesbian students, compared to 11.0% of non-gay and lesbian students, reported skipping because they felt unsafe at school or on the way to school (Taylor and Peters et al, 2011: 89). Transgendered students were even more likely to miss school because they felt unsafe (43.5%, compared to 28.9% for sexual minority participants) (Taylor and Peters et al, 2011:89). “GLSEN reports that 46% of trans students skipped at least one day of school due to feeling unsafe and 13% reported skipping more than five days (Greytak, Kosciw, and Diaz, 2009)” (Taylor and Peters et al, 2011: 89). “Similarly elevated levels of skipping were reported in the McCreary Centre study (Saewyc et al., 2007). The latest U.S. Climate Survey found that 31.7% of gay and lesbian students had skipped a class because they felt unsafe, compared to 5.5% of all students, and 32.7% had missed at least a day, compared to 4.5% of all students (both LGBTQ and non-LGBTQ; Kosciw, Diaz, and Greytak, 2008)” (Taylor and Peters et al, 2011: 89). Taylor and Peters conclude, “it seems that being on the outside in the heteronormative mainstream where gender norms are strictly regulated makes it harder to like being at school and this holds true both for LGBTQ students and for students with LGBTQ parents” (Taylor and Peters et al, 2011, 2011: 90).

23. The first Canadian national study of youth in Canadian schools asked students whether they felt comfortable talking to school staff or other students about gay and lesbian matters and whether or not they felt accepted, respected, and able to be themselves at school. According to O’Donnel School attachment -- the feeling that one belongs in the school community -- is a crucial issue because of its connection to lower suicide rates in the general school population (O’Donnel et al., 2004). “Studies have suggested that there is a link between bullying and suicide, and that there is a disproportionately high rate of suicide attempts and suicidal thinking among gay and lesbian students (O’Donnel, O’Donnel, Wardlaw, and Stueve, 2004; Remafedi, French, Storey, Resnick, and Blum, 1998; Robin et al., 2002; Russell, 2003; Russell and Joyner, 200-; Undry and Chantala, 2002; Wichstrom and Hegna, 2003)” (Taylor and Peters et al, 2011: 93). Taylor and Peters found “LGBTQ students were far more likely than non-LGBTQ students to either strongly or somewhat agree with the negative statements about school. For instance,

almost half of the gay and lesbian participants (44.3%) strongly agreed (15.8%) or somewhat agreed (another 28.5%) that “it is hard for me to feel accepted at my school” compared to fewer than one in six non-LGBTQ students (3.5% strongly and 11.9% somewhat) (Taylor and Peters et al, 2011: 94). “Trans students reported even lower levels of school attachment” (Taylor and Peters et al, 2011: 94).

24. Feelings of isolation in school compound the alienating experience of gay and lesbian youth. Students indicate not knowing any other gay and lesbian youth in their schools and being unaware of a single member of their school staff who were supportive of gay and lesbian students (30.1% of sexual minority females versus 23.7% of sexual minority males and 40.0% of trans students) (Taylor and Peters et al, 2011: 96). “Most LGBTQ students did not know of any openly LGBTQ staff members (72.9% of sexual minority females versus 68.9% of sexual minority males and 68.2% of trans youth)” (Taylor and Peters et al, 2011: 96). Taylor and Peters suggest that isolation can contribute to increased distress, anxiety and depression and potential suicidal ideation and actual suicide attempts. For example, the McCreary Centre longitudinal analysis of data from their large-scale surveys of high school students in British Columbia (Saewyc et al., 2007), found exceptionally high rates of both suicidal thinking and suicide attempts among bisexual female and lesbian students and even more alarming, found that the incidence of both was increasing (Taylor and Peters et al, 2011: 98). Of concern is the fact that “Youth of colour (LGBTQ and non-LGBTQ combined) were far more likely to report that they knew of no teachers or staff members who were supportive of LGBTQ students (48.2% compared to 37.6% of Aboriginal and 30.8% Caucasian youth, LGBTQ and non-LGBTQ youth combined)” (Taylor and Peters et al, 2011: 100).

25. Canadian gay and lesbian youth indicated that lack of social connectedness is a factor with contributes to their discomfort in the school environment (Taylor and Peters et al, 2011:101). The experience of disconnection from community can lead to normlessness and alienation and ultimately disconnection. The research suggests that gays and lesbians who are less connected to their community due to the impact of discrimination are more likely to experience suicidal ideation and actual suicide attempts.

### **C. *Victimization: Social-Psychological Effects***

26. By signing the Covenant and agreeing to abide by its code of conduct, gays and lesbians may find themselves living in a social environment that condones discrimination against sexual minorities. There is potential to be subjected to hateful language that could inspire fear into the gay and lesbian student population. Banks (1999)<sup>3</sup> argues that the injury of hate propaganda is threefold: (1) loss of human dignity and self worth and belonging to community; (2) a loss of cultural identity and group defamation; and, (3) society as a whole is wounded by the experience<sup>4</sup> (Banks, 1999:26). Banks thinks that the effect of hearing hateful speech can cause targetted individuals to take drastic measures in reaction, perhaps avoiding activities which bring them into contact with non-group members or adopting attitudes and postures directed towards blending with the majority. Exposure to the hatred, contempt and humiliation of hate propaganda leaves the target group members feeling like outsiders in their own country, inhibited from contributing to the extent of their desire and ability. A further effect is the danger that “those to whom hate speech is directed will accept the prejudice, further damaging their self esteem and dignity, or not speak out against the hatemonger and assert their own views due to fear of further attack, thus denying the target group members full participation in the democratic process.”<sup>5</sup> (Banks, 1999:34).

### **D. *Shunning and Scapegoating***

27. Gay and lesbian students who are outed and who become known as violators of the Covenant will potentially be shunned and ostracized by the community for violating the norms and values of the school. As an outsider within, Trinity Western University students who violate the covenant may find achieving their goal of accreditation somewhat difficult. All sorts of

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<sup>3</sup> Banks, N.K. 1999. “Could Mom be Wrong? The Hurt of Names and Words: Hate Propaganda and Freedom of Expression.” *E Law - Murdoch University Electronic Journal of Law* 6, 2. Available at: <<http://www.murdoch.edu.au/elaw/issues/v6n2/banks62.txt>>. (Accessed June, 1999).

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

biases may come into play such as losing the support and mentorship of teachers, losing one's circle of friends and potential legal colleagues, and losing one's degree. Exposure, therefore, could have both professional and personal consequences.

***E. Censorship of Gay and Lesbian Families and Marriage***

28. Signing the Covenant would force gay and lesbian students to support a limited world view with regard to what kinds of intimate relationships are acceptable and unacceptable. This requires self-censorship. The focus on marriage which includes "one man and one woman" under the Covenant's definition, precludes a same-sex marital relationship. Asking gays and lesbians to sign the Covenant as a form of binding contract excludes any other type of intimate relationship. This exclusion supports the assumption that the relationships of married heterosexual couples are superior to any other intimate relationship. This may be problematic when there is a potential transference of this viewpoint onto others in a professional capacity after graduation and while working in the legal profession.

29. Signing the covenant will force gays and lesbians to deny the existence of their same sex relationships. Heterosexual relationships within marriage are considered the only normal intimate relationship within the Trinity Western University community. While same-sex marriage is legally sanctioned in Canada, the belief that marriage is an institution limited to "one man and one woman" diminishes the value of gay and lesbian relationships. There will be no recognition of lawful same sex unions and no acknowledgement of the double-standard that is being perpetuated within the Trinity Western University community.

***F. Exclusion***

30. In signing the Covenant, gays and lesbians will be required to isolate themselves within the Trinity Western University culture. Canadian anti-gay/lesbian violence surveys provided many examples of how gays and lesbians exclude themselves from mainstream culture in order to prevent potential victimization. Hate speech harms sexual minority communities because it

“reinforces stereotypes of gays and lesbians as socially undesirable, sexually aggressive sexual predators (among other things) deserving of society’s fear and loathing and discrimination. (Banks, 1999:34). The exact same findings were found in a 1966 study conducted in Canada. Early Canadian investigations into the psychological consequences of hate propaganda found that target groups may respond to prejudice in a number of ways: (a) by aggression<sup>6</sup>, (b) by avoidance<sup>7</sup> or (c) by acceptance.<sup>8</sup> According to the Cohen Committee (Canada, Minister of Justice, 1966), while most effects of prejudice on a minority group are negative there are also beneficial effects such as greater success based on the perception that one needs to work harder than others in order to succeed.<sup>9</sup> Nevertheless:

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<sup>6</sup> The Cohen report notes that “aggression” as a “response to prejudice manifests itself in a determination to strive harder than other people, an effect which, ironically, creates among majority groups the misconception that some racial groups are born cleverer than others.” Ibid, “Social-Psychological Effects of Hate Propaganda and the role of Law and Education as Controls.” Report to the Minister of Justice, 1966, p. 30. Canada, Minister of Justice. *Report to the Minister of Justice of the Special Committee on Hate Propaganda in Canada*, (Cohen Committee).Queen's Printer, Ottawa, 1966.

<sup>7</sup> The Cohen report notes that “avoidance” of the issue “takes such forms as ‘passing’ among Negroes, changes of name among Jews and immigrant groups, and ‘voluntary’ physical and economic segregation. Generally speaking the minority group member’s exposure to prejudice decreases inversely with his income and occupational status.” Ibid, “Social-Psychological Effects of Hate Propaganda and the Role of Law and Education as Controls,” Report to the Minister of Justice, 1966, p. 30. Canada, Minister of Justice. *Report to the Minister of Justice of the Special Committee on Hate Propaganda in Canada*, (Cohen Committee).Queen's Printer, Ottawa, 1966.

<sup>8</sup> The Cohen report notes that “‘acceptance’ of prejudice and one’s minority status may be total, specific or unconscious. In its total or wholehearted form it may be accompanied by apathy, resignation, or ‘voluntary’ segregation. When acceptance is specific – the commonest form – the individual simply accepts the fact that certain doors are closed to him and makes no effort to change these circumstances. When acceptance is unconscious (the category which is probably most important psychologically) it produces the kind of inner tension which can be either completely demoralizing to an individual or a genuine challenge to him.” Ibid. “Social-Psychological Effects of Hate Propaganda and the Role of Law and Education as Controls.” Report to the Minister of Justice, 1966, p. 30. Canada, Minister of Justice. *Report to the Minister of Justice of the Special Committee on Hate Propaganda in Canada*, (Cohen Committee).Queen's Printer, Ottawa, 1966.

<sup>9</sup> “It is sometimes suggested that prejudice can produce certain beneficial effects in the minority group. Because its members have to work harder than others if they are to improve their status, a larger proportion of them may be successful in their careers. Similarly their minority status may create a high sense of loyalty to their group and a pride in its achievements. But these occasional and marginal benefits of minority status are heavily outweighed by the cruel economic, social and psychological damage which prejudice can inflict. The knowledge that one is barred, through no fault of one’s own, from certain social circles, from clubs and resorts, even from some certain professional activities and industries, is infinitely more degrading and demoralizing than any conceivable advantages of belonging to a minority group.” Ibid, “Social-Psychological Effects,” 1966, p. 31. Canada, Minister of Justice. *Report to the Minister of Justice of the Special Committee on Hate Propaganda in Canada*, (Cohen Committee).Queen's Printer, Ottawa, 1966.

*... these occasional and marginal benefits of minority status are heavily outweighed by the cruel economic, social and psychological damage which prejudice can inflict. The knowledge that one is barred, through no fault of one's own, from certain social circles, from clubs and resorts, even from some certain professional activities and industries, is infinitely more degrading and demoralizing than any conceivable advantages of belonging to a minority group.*" (Cohen Committee, Canada, Minister of Justice, 1966:31)

Clearly, the effects of discrimination can have immeasurable and far-ranging repercussions.

### **G. Generating a Climate of Fear**

31. Signing the Covenant may lead gay and lesbian students to perceive that they are under constant surveillance within the Trinity Western University environment which may contribute to a climate of fear. This results in the imposition of a special moral code regulating behaviour and attitudes. Being watched and watching others may become a form of social control wherein those who do not agree or abide by the rules risk discipline or expulsion. Affairs, flirtations, same-sex attraction, essentially intimacies of any sort which do not fit within the strict framework of the Covenant, could be subject to questioning, investigation and moral contempt.

32. Signing a Covenant that requires censure of gay and lesbian existence could lead to a climate of fear within the Trinity Western University community. American and Canadian psychologists (Herek, Gillis, Cogan and Glunt 1997; Garnets, Herek and Levy 1992; Herek, Gillis and Cogan 1999; Herek, Cogan and Gillis 2002) reporting on the psychological effect of hateful language note that while most discussions of anti-gay hate crimes focus on physical and sexual assault "verbal harassment and intimidation are the most common forms of victimization of lesbians and gay men" (Garnets, Herek, and Levy 1992:215). Words such as 'faggot,' 'dyke', 'queer' and the threats of violence (implicit and explicit) that accompany them are used by oppressors to remind gays and lesbians of their subordinate status. Garnets Herek and Levy (1992: 215) suggest that anti-gay verbal abuse "constitutes a symbolic form of violence and a routine reminder of the ever-present threat of physical assault" and reminds sexual minorities of their outsider and minority status. Anti-gay verbal assault challenges the victim's routine sense of security and invulnerability, making the world seem more malevolent and less predictable.



The psychological effects of verbal abuse can be even more severe than the effects of physical abuse because “it affects how one feels about oneself without a physical injury to which to attribute the feelings” (Garnets, Herek, and Levy 1992:215). Verbal attacks inspire feelings of fear and self-hatred. Because verbal threats may also involve near encounters with violence, verbal abuse can seriously restrict the day-to-day behaviours of sexual minorities. Many Canadian gay and lesbian respondents to victimization surveys indicate that their public behaviour is affected by their fear of physical attack (Faulkner 1997, 1999, 2001). Verbal harassment and intimidation reinforce this climate of fear. Fearing verbal harassment and intimidation, gays and lesbians form the adaptive strategy of avoiding possible occasions of verbal abuse, consequently, their day to day behaviours are restricted, and they may lose considerable control over their lives. Those who are closeted may view verbal intimidation as a form of outing, leading them to retreat further into the closet. Garnets, Herek, and Levy note that in addition to those close to the victim, the entire gay and lesbian community is victimized by anti-gay verbal assaults. “Hate crimes create a climate of fear that pressures lesbians and gay men to hide their sexual orientation” (Garnets, Herek, and Levy 1992:216).

33. American gay and lesbian students experience hostile school environments. This finding is documented in a study conducted by Bochenek and Brown which interviewed 140 youth between the ages of 12 and 21 during a one year period in seven U.S. states (1999-2000) (Bochenek and Brown, 2001). The qualitative data revealed that students experienced verbal and non-verbal harassment and physical violence. The study found that hostile school climates undermine students’ ability to focus at school as well as their well-being (Bochenek and Brown, 2001). Anti-Gay verbal harassment generated an atmosphere of discrimination, harassment and violence in which students could not even rely on their instructors for protection (Bochenek and Brown, 2001). Homophobic comments are common and an accepted part of school life, even uttered by some teachers. Almost two out of three non-heterosexual students do not feel safe in their schools. The effect of this harassment is that students experience extreme stress due to fear for their safety with the result that they switch schools or drop out of school altogether, attempt to hide their sexual orientation and stay in the closet (Bochenek and Brown, 2001).

34. The Report, "Hatred in the Hallways," (Bochenek and Brown, 2001) found that gay and lesbian students are educated in a hostile environment in which the threat of verbal and other nonphysical harassment can escalate into physical assault. Students are affected by the damaging effects of verbal harassment "that goes unchecked may quickly escalate into physical violence, including sexual assaults" (Bochenek and Brown, 2001). As a result, "[T]hose who endure such abuse on a daily basis report that it affects their school performance and general well-being" (Bochenek and Brown, 2011: 35). "The failure to address antigay harassment and violence affects the education of all students, not only those who are harassed" ... with the result that "the failure to respond to harassment and violence subverts these principles by sending all students a message that it is permissible to hate" (Bochenek and Brown, 2001: 35-36).

35. The effect of a hostile climate on gay and lesbian students "undermines students' ability to focus at school as well as their well-being" (Bochenek and Brown, 2001: 37). Being called a "faggot", being subject to whisper campaigns which include rumours and gossip and receiving obscene telephone calls, written obscene notes or suggestive cartoons and graffiti scrawled on walls or lockers or pornography creates an environment in which students "hate every minute of school" (Bochenek and Brown, 2001: 36). The harassment can be so persistent that it creates a climate of fear which has "serious consequences for school performance and general well-being" (Bochenek and Brown, 2001: 38). Given that this atmosphere of discrimination, harassment and violence is not conducive to learning "some youth switch schools to escape harassment and violence" while others "miss a semester or more of classes until they find a school that they can attend without fearing violence or experiencing persistent harassment" (Bochenek and Brown, 2001: 38). A few simply drop out of school altogether. Some students try to ignore the harassment and come to perceive that it is something they have to "put up with" so that "students internalize the message they are just going to have to learn to live with harassment" (Bochenek and Brown, 2001: 39).

36. Bochenek and Brown (2001) note that "when teachers and administrators fail to protect students from peer harassment and violence, the state violates its obligation under international law to provide youth with the 'measures of protection' they are due as children" within the International Covenant on Civil and Political Rights (Bochenek and Brown, 2001:35: see

footnote 50).<sup>10</sup> Unfair discrimination in the form of protecting the rights of straight students versus the rights of gay students “runs afoul of its duty to respect and ensure the right of youth ‘without any discrimination to the equal protection of the law’” under the ICCPR, article 26 (Bochenek and Brown, 2011: 35; see footnote 51). The Report notes that “[T]he failure to address anti-gay harassment and violence affects the education of all students, not only those who are harassed” (Bochenek and Brown, 2001: 35). The authors cite *Brown v. Board of Education* (1954) in “[E]mphasizing ‘the importance of education to our democratic society,’ the U.S. Supreme Court has observed that it is ‘perhaps the most important function of state and local government,’ ‘the very foundation of good citizenship,’ and ‘a principal instrument in awakening the child to cultural values’” (Bochenek and Brown, 2001:35 see footnote 53).<sup>11</sup> Under the Convention on the Rights of the Child the state has the obligation to protect children from physical and mental violence.

#### **H. Gender Role-Conformity: Social and Psychological Effects**

37. Signing the Covenant is potentially harmful because it forces gays and lesbians to abide by strict gender roles which perpetuate sexism. There is no recognition of diverse gender identities; one may only be a “man” or a “woman” within the Trinity Western University context. Social Psychologists who investigate the ways in which homophobia is structured suggest that rigid gender roles create a culture of deviance,<sup>12</sup> perpetuate sexism and patriarchy,<sup>13</sup>

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<sup>10</sup> International Covenant on Civil and Political Rights (ICCPR), art. 24(1). Human Rights Watch views the obligation to protect youth from violence as one aspect of the ‘measures of protection...required by [one’s] status as a minor.’ See Chapter XI, “Right to Protection from Physical and mental Violence” section .51 ICCPR, art. 26.

<sup>11</sup> *Brown v. Board of Education*, 347 U.S. 483, 493 (1954). Article 29(2) of the Convention on the Rights of the Child notes that one of the purposes of education is “the development of respect for human rights and fundamental freedoms.” Ratified by every country in the world with the exception of Somalia and the United States, the convention reflects international consensus on children’s human rights. Because the United States has signed but not ratified the convention, it is not generally bound by the convention’s terms; as a signatory, however, it has the obligation to refrain from actions that would defeat the convention’s object and purpose. See Chapter XI, “Right to Protection from Physical and Mental Violence” section.

<sup>12</sup> J. Harry, “Derivative Deviance: The Cases of Extortion, Fag-Bashing and Shakedown of Gay Men.” *Criminology*. 19 (1982):546.

<sup>13</sup> Ibid, Herek, 1986, p 563. Herek, G.M. (1986). On heterosexual masculinity: Some psychical consequences of the socialconstruction of gender and sexuality. *American Behavioral Scientist*, 29 (5), 563-577. Herek, G.M. and K.T.

and further an ideology of heterosexism<sup>14</sup> (Harry, 1982:546; Herek, 1986:563; Herek, 1984:1). As Cohen notes, “most experts agree that homophobia is more than a visceral fear of lesbians and gay men; it is, for lack of conclusive definition, an ideology of perceived sexual deviance that operates to silence, subordinate, and exploit anyone who violates traditional gender roles”<sup>15</sup> (Cohen, 2000:74). Because closetry, deviance, sexism, and supremacy form the context of homophobia against which hate propaganda works its harms, Cohen argues that these harms are not just the result of individual incidents of defamation, but must be viewed in the context of heterosexual domination.

### **I. Pathologizing Gay and Lesbian Identity**

38. Signing the Covenant is harmful because it potentially re-pathologizes homosexual identity, and denies the recognition of the harm of homophobia. Homosexuality was removed from the standard reference Diagnostic and Statistical Manual of Mental Disorders in 1973 and is no longer considered a mental disorder. Homosexuality was decriminalized in 1969 through the Criminal Law Amendment Act. Trinity Western University’s exclusion of gays and lesbians works to suggest the deviant nature of those who do not define themselves and perform as heterosexual.

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Berrill (eds). 1992. *Hate Crimes: Confronting Violence Against Lesbians and Gay Men*. Newbury Park; London; New Delhi: Sage Publications.

<sup>14</sup> Ibid, Berrill, 1984, p. 1. Berrill, K.T. 1986. *Anti-Gay Violence: Causes, Consequences, Responses. A White Paper by the Violence Project of the National Lesbian and Gay Task Force*. Washington, D.C.: NGLTF, 1-28.

<sup>15</sup> Ibid, Cohen, 2000, p. 74. J. 2000. Cohen. “More Censorship or Less Discrimination? Sexual Orientation Hate Propaganda in Multiple Perspectives.” *McGill Law Journal* 46, 69-104.

***J. Denial of Personhood and Citizenship***

39. Signing the Covenant would force gays and lesbians to deny their personhood and citizenship in the human family. History has shown how “the language of dehumanization paves the way for atrocities against stigmatized groups in society.”<sup>16</sup> (Amnesty International, 2001:1). Differences of ethnicity, gender, religious affiliation and sexual orientation become boundaries drawn to exclude certain people from citizenship and even from membership of the human family.

***K. Double Standards***

40. While signing the Covenant may grant gays and lesbians symbolic status through the guise of heterosexual privilege it also forces them to live a double-life whereby gay and lesbian students would need to self-censor themselves and their partners. Lack of recognition of partnership or same-sex marital status would put gay and lesbian students in a no win situation akin to that of gay priests who are advised to “love the sinner but hate the sin.” Or the “don’t ask; don’t tell” military law under the Clinton administration where gays and lesbians were not allowed to talk about their sexual orientation or engage in sexual activity, and commanding officers were not allowed to question service members about their sexual orientation. However, commanding officers were still discharging LGBTQs from the service. The effect of such a double standard is to push gay and lesbian law students further back into the closet.

***L. Violation of Professional Standards***

41. If expelled from Trinity Western University students may feel compelled to explain their reasons for leaving the school. This may have a negative impact in terms of gaining entry to another faculty of law or even in applying for a job for which they may require a reference.

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<sup>16</sup> Amnesty International. Crimes of Hate, Conspiracy of Silence: Torture and Ill-Treatment based on Sexual Identity. (London, United Kingdom: Amnesty International Publications, 2001).

Students may feel shame in having to explain the reasons why they left Trinity Western University and this may contribute to their self-perception of failure. A failed semester at Trinity Western University may be seen to reflect badly on their prospects for completing a degree elsewhere and in fulfilling future employment obligations.

42. When JD graduates apply to become members of the Bar, they are required to obtain certificates of character and moral fitness, and, when they become members of the Bar, are under a continuing obligation to disclose any dishonesty or fraud in the past. This renders students who either come out during law school and/or hide their sexual orientation/gender identity while in law school, or who are suspected of either condition, vulnerable to ongoing threats of disclosure, intimidation, pressure, or threats by anyone who might be aware of the Trinity Western University covenant and the serious consequences that ex post facto 'outing' might have on their professional status, career, ability to sit on the bench, or hold professional leadership positions.

43. The well-known standards of character and fitness that apply to lawyers are different in quality and in consequences when compared with, for example, the codes of conduct that apply to those in other professions. Thus JD graduates would be particularly affected by the conflict imposed by the Trinity Western University covenant, on the one hand, and by Bar standards of honesty and disclosure, on the other hand.

44. These effects are not limited to LGBTQ students and graduates, either. The covenant requires all members of the Trinity Western University community to remain alert to potential violations of the covenant, and failure to do so or delay in reporting suspected or known violations of the covenant could cause the same kind of double-bind described above.

#### **M. Silencing and Diminishing Debate**

45. Signing the Covenant may lead gay and lesbian students to perceive that debate about moral and ethical issues is unwelcome. One of the aims of higher educational institutions is to share ideas and debate social and ethical issues and conduct research that builds on previous knowledge. If the potential to engage in debate about current social and ethical issues is

denounced due to the fact such debates infringe upon the values outlined in the Covenant, gay and lesbian students may be denied a well-rounded education that could prepare them for work in the legal profession.

## **II. Would Being Excluded From This School Cause Harm?**

46. Not signing the Covenant would lead to various consequences.

47. It could lead to denial of entry to the school, which may have consequences for students who are competing in a limited market for space for entrance into a school of law.

48. It could lead to self-selection out of the Admissions process due to inability to sign the Covenant, because they are gay or lesbian or another protected identity under the Charter. Preclusion on the basis of inability to abide by the Covenant would deny students equal access they would otherwise have at a competing university. And if students are only accepted at Trinity Western University and, feel that they are unable to sign the Covenant, this would mean they would be unable to attend any school of law. There may be many reasons to not sign the Covenant on the basis of religious belief, values, sexuality and gender identity. Thus, Trinity Western University is precluding a whole group of people from access to the university on the basis of prejudice.

## **III. What Is The Status Of Gays And Lesbians In The Legal Profession?**

49. Despite the many great advances in the legal rights of sexual minorities in Canada, many lawyers still face the same barriers they did at the beginning of this process decades ago. Currently, there is no comprehensive Canadian study of gay, lesbian, bi-sexual, trans-gendered and two-spirited people within the legal profession that clearly captures where these individuals are and how their sexual orientation impacts upon their career options perceptions of themselves as professionals and their status within the profession. Studies of diversity in the Canadian Legal profession have to date focused on bias experienced by gender and race/ethnicity (Kay, Masuch

and Curry (2004<sup>17</sup>). One Canadian survey study of gay people report the existence of employment discrimination (Adam, 1981)<sup>18</sup>. Sexual orientation discrimination in the legal profession is largely documented in U.S and U.K reports.<sup>19</sup>

50. Although there have been some significant strides made in Canadian legal professions in reducing sexism in law (Kay, Masuch, and Curry, 2004), this has not necessarily been the case for queer, transgendered, aboriginal, disabled and racialized lawyers and law students. In particular, little attention has been paid to the intersections of inequality and the challenges this poses for lawyers attempting to sustain themselves in the legal profession.

51. In 2011 funding was obtained from the Social Sciences and Humanities Research Council of Canada (SSHRC) to conduct research on LGBTQ discrimination in the legal profession<sup>20</sup>. The

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<sup>17</sup> Kay, F.M., C. Masuch and P. Curry. September 2004. Diversity and Change: The Contemporary Legal Profession in Ontario. A Report to the Law Society of Upper Canada.

<sup>18</sup> The intolerance demonstrated in Adam's study by the Ontario legal profession suggests a systematic bias practiced against women and even more so against gay people by the Ontario Judiciary (Adam, 1981). Barry D. Adam. 2008. "Stigma and Employ ability: Discrimination by Sex and Sexual Orientation in the Ontario Legal Profession." *Canadian Review of Sociology/Revue canadienne de sociologie*. Vol 18, Issue 2: 216-221. \*\* This paper was written with the assistance of a law student at the University of Windsor and was presented to the Canadian and Anthropology Association, May, 1978 in London, Ontario; M.V. Lee Badgett. 1996. "Employment and Sexual Orientation: Disclosure and Discrimination in the Workplace." *Journal of Gay and Lesbian Social Services*. Vol 4, Issue 4: 29-52.

<sup>19</sup> Kay, Masuch and Curry (2004:5 see citation 23) cite the following research investigating sexual orientation bias : Cooper, M. J. Brockman and I. Hoffart.2004. *Final Report on Equity and Diversity in Alberta's Legal Profession*. Calgary, Alberta: The Law Society of Alberta; King County Bar Association. 1995. *In Pursuit of Equality: The Final Report of the KCBA Task Force on Gay Issues in the Legal Profession*. Washington, DC: King County Bar Association. Cited in Washington State Bar. 1999. "Trends and Issues affecting lesbians and gays in the legal profession." Washington State Bar News Online. 12. Available at, <http://www.wsba.org/barnews/1999/12/diversity.htm>; Los Angeles County Bar Association, Committee on Sexual Orientation. 1994. Report of the Committee on Sexual Orientation Bias. Los Angeles, CA: County Bar Association; Judicial Council of California. 2001. *Sexual Orientation Fairness in the California Courts: Final Report of the Sexual Orientation Fairness Subcommittee of the Judicial Council's Access and Fairness Subcommittee*. Orange County, CA: Judicial Council of California; Bar Association of the City of New York, Committee on Lesbians and Gay Men in the Legal Profession. 1993. *Report on the Experiences of Lesbians and Gay Men in the Legal Profession*. New York: Bar Association of the City of New York; Hennepin County Bar Association Legal and Gay Issues Subcommittee. 1995. *Legal employers' barriers to advancement and to economic equality based on sexual orientation*. Minneapolis, MN: Hennepin County Bar Association. California State Bar's standing Committee on Sexual Orientation and Gender Identity Discrimination. 2002-2003. Committee on Sexual Orientation and Gender Identity Discrimination 2002-2003 Annual Report.



findings are preliminary in nature however findings from research conducted in the United Kingdom and United States reveal discrimination experienced by LGBTQ lawyers (Kay, Masuch and Curry, 2004<sup>21</sup>). This project began through discussion with the Sexual Orientation and Gender Identity Committee (SOGIC) of the Canadian Bar Association (CBA). After consultation with concerned members of the legal profession (including lawyers, students and judges), SOGIC formed a Survey Sub-Committee to study and identify barriers to marginalized groups within the legal profession further. The current study has identified the need to address these barriers in law which perpetuate inequality. Findings from the research will be available in published form in 2014.

52. The purpose of this study, *Sexual Orientations and Gender Identities in the Legal Profession: Invisibility, Disclosure and Equality*, is to conduct a national survey for lawyers and law students as well as focus groups to determine where inequalities and barriers persist in the legal profession -specifically in relation to intersections of marginalized personalities. This data will have significant contributions in two key areas. Firstly, it contributes to the advancement of knowledge on marginalized populations and the barriers in the legal profession-a currently uncharted area. Second, the data gathered for the research project can be utilized to push for more equitable policies in Canadian legal workplaces, which will enhance the quality of life for all lawyers, particularly those from marginalized positions. These policies will make the legal profession more equitable in hiring as well as more cognisant of the need for consistent equity

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<sup>20</sup> Sexual Orientations and Gender Identities in the Legal Profession: Invisibility, Disclosure, and Equality. 2011. Standard Research Grant. Social Science and Humanities Research Council of Canada. Dr. Audrey Kaboyashi (Principal Investigator); Professor Kathleen Lahey (Collaborator); Dr. Ellen Faulkner (Collaborator); Dr. Kevin Alderson (Collaborator); Dr. Barry Adam (Collaborator). The objectives of the project are twofold: document through surveys and focus groups the persistence of barriers to employment in the legal profession in Canada-paying close attention to the intersections of race, gender, class, ability, sexuality and nationality; and using the data collected to submit recommendations to the Canadian Bar Association to mandate inclusionary policies in all legal workplaces across Canada. As a whole the project aims to provide justification for more equitable and inclusionary policies and practices in legal workplaces across the country.

<sup>21</sup> Kay, F.M., C. Masuch and P. Curry. September 2004. Diversity and Change: The Contemporary Legal Profession in Ontario. A Report to the Law Society of Upper Canada.

training and awareness in the workplace. Clearly, there are significant advances to be made with the SSHRC funded project.

53. Cooper et al's (2004<sup>22</sup>) Canadian study of diversity in the Alberta legal profession found a large majority of respondents, both heterosexual and homosexual indicated that their firms did discriminate on the basis of sexual orientation. Homosexual lawyers that did not disclose their sexual orientation did so because they were afraid that disclosure would impede their career advancement, threaten their job security, result in a loss of business from clients. There was clear disagreement among gay and lesbian lawyers about whether gay and lesbian lawyers should disclose their sexual orientation or not. While all participants agreed that lawyers "put their careers on the line" if they disclose, some lawyers feel that they are doing all gay and lesbian people a disservice by masquerading as heterosexual, and they have a duty to disclose.

54. Phil Duran's 2007<sup>23</sup> U.S. study of invisible minorities in the legal profession found: "Whether GLBT attorneys are invisible is a debatable question: fully 81% of gay, lesbian, and bisexual participants (no participant identified as transgender) indicated they were 'out' at work, but 70% reported having hidden their sexual orientation for professional reasons at some point in their career. Tellingly, only 32% of GLB participants felt it was 'safe' to be out at work, and 26% of GLB attorneys (and 50% of non-GLBT attorneys) said that it was better not to be out at work at all. There may be a professional impact of being 'out': nearly a third of GLB participants believed they had lost a client in the past five years because of the client's attitude toward their sexual orientation." (Duran, 2007 p2) Duran writes: "Although workplace "diversity" efforts are

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<sup>22</sup> Cooper, Merrill, Joan Brockman and Irene Hoffart. 2004. "Final Report on Equity and Diversity in Alberta's Legal Profession." For the Joint Committee on Equality, Equity and Diversity of the Law Society of Alberta; Canadian Bar Association, Alberta Branch; Faculty of Law, University of Calgary; and Faculty of Law, University of Alberta.

<sup>23</sup> "The purpose of this 2006 study was to updated and expand the information from the previous SAGE reports and the 1993 Hennepin County Bar Association Glass Ceiling Task Force Reports..." MSBA, 2006: 7). Duran attempted to "get a snapshot of the legal community and of the circumstances faced by women, racial minorities, people with disabilities, people of minority religious backgrounds, and gay, lesbian, bisexual, and transgender (GLBT) people, to see how these populations are faring professionally." Phil Duran. June 2007. "Breaking the Silence: Invisible Minorities in the Legal Profession." The National Association for Law Placement Bulletin. Vol. 19 No. 6.

presumably intended to make a positive difference in office culture, only 28% of GLB participants agreed that such efforts at their workplaces included issues related to sexual orientation or gender identity. Said one participant: ‘Gay/lesbian culture is the last safe group to hate in this country ... and, at the same time, we’re in the diversity realm, being considered not really a diversity issue. So you get the worst of both worlds’” (Duran, 2007 p3).

55. The Judicial Council of California (2001) <sup>24</sup> found that more than half of the gay and lesbian respondents experienced or observed a negative comment or action toward gay men or lesbians. Court employee respondents heard derogatory terms, ridicule, snickering, or jokes about gay men or lesbians in open court, with the comments being made most frequently by judges, lawyers, or court employees. Lawyers and judges more frequently make the limited number of positive comments or take positive actions toward gay and lesbian court users. Court employees are least likely to make any positive comments. About half of court employees who observed negative actions or heard negative comments in open court took no action in response. In evaluating the success of the courts in providing access and being available to resolve disputes involving lesbians and gay men, lesbian and gay court employees rated the courts significantly lower than did heterosexual court employees. Lesbian and gay employees were at least four times more likely to experience negative actions or comments based on sexual orientation than were heterosexual employees. Lesbian and gay court employees believed the courts are less fair to all court users than did heterosexual court employees. Heterosexual court employees rated the courts significantly higher in evaluating the success of the courts in providing access, being available to resolve disputes, and providing fair and unbiased treatment of all categories of sexual orientation than did lesbian and gay court employees. The vast majority of gay and lesbian court participants do not disclose their sexual orientation in their contacts with the courts, nor is a court participants’ sexual orientation readily apparent.

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<sup>24</sup> Judicial Council of California. 2001. Sexual orientation fairness in the California courts: Final report of the Sexual Orientation Fairness Subcommittee of the Judicial Council’s Access and Fairness Subcommittee. (Orange County, CA: Judicial Council of California).

56. The Task Force on Diversity in the Profession of the Minnesota State Bar Association (2006)<sup>25</sup> surveyed the perception and experience of bias on the basis of gender, race and ethnicity, sexual orientation, disability and religion and creed. In the Executive Summary the authors report “Most women attorneys, attorneys of color, GLBT attorneys and disabled attorneys perceive bias as a major or moderate problem in workplaces, the courts and in interactions between themselves and opposing counsel, while most attorneys not in those groups perceive such bias as a minor or non-existent problem” (MSBA, 2006:8). Findings about GLBT participants reveal: “In Minnesota’s legal profession, workplace bias is not limited to bias against women. Although 81% of GLBT attorneys are open about their sexual orientation at work, 70% have, at some point in their professional careers, hidden their orientation or identified themselves as heterosexual because of concern that revealing their orientation might negatively impact their careers. Domestic partner benefits are available at 72% of firm and 50% of non-firm employers. Most GLBT attorneys perceive they are assigned less favourable work and do not have the same chance of promotion in the legal profession as heterosexuals” (Minnesota State Bar Association, 2006:8).

57. The Columbus Bar Association Task Force<sup>26</sup> created, distributed and analyzed a survey of its members concerning their experiences and perceptions of the treatment of gay and lesbian attorneys and clients in the Central Ohio area (2002). The Columbus Bar Association found that “Almost half (48%) of gay and lesbian members responding have seen or heard discriminatory comments about gays and lesbians in their workplace. And an overwhelming number of gay and lesbian members responding (92%) have heard or seen disparaging comments about gay and

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<sup>25</sup> The Task Force developed and executed a three-part research study involving (1) a survey of law firms and non-law firms, (2) A survey of individual lawyers, and (3) conducted focus groups of lawyers who are members of diverse communities. Fifteen focus groups were conducted and eighty-six lawyers participated Task Force on Diversity in the Profession of the Minnesota State Bar Association. September 2006. A Research Study of Minnesota Law Firms, Non-Firm Employers and Individual Lawyers. Minneapolis, MN: Minnesota State Bar Association. Accessed March 26, 2009 Available at:

<<http://www2.mnbar.org/committees/DiversityTaskForce/Diversity%20Report%20Final.pdf>>

<sup>26</sup> Columbus Bar Association. 2002. *Report of the Task Force on Sexual Orientation*. Columbus, Ohio.

lesbians in public settings. Nearly half (46%) of gay and lesbian members responding believe that being gay or lesbian negatively affects their ability to succeed in the legal profession.”

58. In November 2008<sup>27</sup> the American Bar Association (ABA) created a commission on Sexual Orientation and Gender Identity which collected ten U.S. city, county and state reports about LGBT lawyer experience within their firms between 1991 and 2007.<sup>28</sup> The Commission “document difficulties that continue to be experienced by LGBT lawyers.”

59. Chisholm’s (2006) British study<sup>29</sup> of LGBTQ solicitors found that gay and lesbian solicitors who were out largely gravitated towards firms that they believed would be in accord with their philosophy and way of life, thus for some this meant seeking out firms that were ‘gay-owned’, had a large proportion of gay employees, or promoted themselves as ‘gay-friendly’. “Some solicitors felt their decision whether to be out was hampered by a lack of recruitment resources that would enable them to ascertain the working environment of the firm and its acceptance of diversity before they applied. Three factors that influence the decision to come out are the geographical location where the interviewee was based, the age of the interviewee, level of career progression. The perception that firms seek pre-determined traits within their employees not only perpetuates the idea of law firms revolving around an ‘old-boy network’, but could also serve to exclude a diverse range of people on the basis of attributes far beyond the issue of sexuality, for example, gender, ethnicity, marital status and so on. Gay and lesbian solicitors may feel pressured to adopt strategies of body mapping in the workplace, whereby they consistently monitor their body and behaviour for ‘signs of homosexuality’, adopting dress, gestures and mannerisms designed to reduce the degree to which their sexual orientation

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<sup>27</sup> In November 2008 The American Bar Association ABA Created a Commission on Sexual Orientation and Gender Identity. Available online: <http://www.highbeam.com/doc/1P3-1381547581.html>

<sup>28</sup> *The Report of the Bar Association of San Francisco Equality Subcommittee on Lesbian, Gay, Bisexual, and Transgender Issues* (BASF Report).

<sup>29</sup> Chisholm, Jamie. August 29, 2006. “Concerns of gay solicitors outlined in report.” *The Financial Times*. F.T. Com. UK. Available online: [http://www.ft.com/cms/s/0/29ff4c04-36fa-11db-89d6-0000779e2340.html?ncllick\\_check=1](http://www.ft.com/cms/s/0/29ff4c04-36fa-11db-89d6-0000779e2340.html?ncllick_check=1)>

becomes visible. A growing trend in law firms is placing emphasis on social interaction, both between staff and, for corporate firms, also in the form of more official social functions with clients. Gay male interviewees working in large cities commented on the heightened sense of heterosexual machismo that they found in the larger, and particularly corporate, firms. Lagla is one of the main groups for gay and lesbian lawyers in England and Wales but has been reported to be more important to lesbians than gay males. Regardless of whether interviewees felt that a Law Society group for gay and lesbian solicitors would fulfill an important role in their own lives, almost all respondents deemed that there should be a group.”

60. Attached hereto and marked as Exhibit "C" to this my Affidavit is a list of the References I used to prepare this affidavit.

61. In my opinion, these harms outlined in this Affidavit are very serious. While not every gay or lesbian student will experience them, the majority will experience many of them.

SWORN BEFORE ME at the City of )  
)  
Prince George, in the Province of British )  
)  
Columbia, this 9<sup>th</sup> day of April, 2014. )  
)  
)  
)  
)  
)  
\_\_\_\_\_  
A Commissioner for taking affidavits )  
for British Columbia )

Dr. Ellen Faulkner  
ELLEN FAULKNER

**LINDA A. MANNING**  
*Notary Public*  
 475 Vancouver Street  
 Prince George, BC V2L 2P2  
 Phone 250-563-6008

THIS IS EXHIBIT "A" REFERRED TO IN THE  
AFFIDAVIT OF ELLEN FAULKNER  
SWORN BEFORE ME AT PRINCE GEORGE  
THIS 9th DAY OF APRIL, 2014

A handwritten signature in black ink, appearing to read "D. Smith", is written over a horizontal line.

A COMMISSIONER FOR TAKING AFFIDAVITS IN BRITISH COLUMBIA

## CURRICULUM VITAE

**DR. ELLEN FAULKNER** - B.A. (Hons) (Qu.), M.A.S. (Qu.), Ph.D. (Tor.)  
**Department of Sociology and Criminology**  
**College of New Caledonia**  
**Prince George, British Columbia**  
**Email: [faulknere3@cnc.bc.ca](mailto:faulknere3@cnc.bc.ca)**  
**Telephone: (250) 826-2320**

### DEGREES:

PhD. University of Toronto. Sociology. 1999.

MA. Queen's University. Sociology. 1991.

BA Honours. Queen's University. Sociology and Women's Studies. 1989.

### TEACHING APPOINTMENTS:

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College Professor, Department of Sociology and Criminology, College of New Caledonia, Prince George, British Columbia. (Full-Time Tenure Track Position 2013).

College Professor, Department of Interdisciplinary Studies, Okanagan College, Kelowna, British Columbia. (Full-Time, Limited-Term Contract 2012-2013).

Instructor, Department of Criminology, Kwantlen Polytechnic University, Surrey, British Columbia. (Full-Time, Limited-Term Contract 2011-2012).

Instructor, The Raymond E. Chang School of Continuing Education, Ryerson University, Toronto, Ontario. (Sessional, Part-Time, Spring/Summer – Fall 2010).

Assistant Professor of Critical Criminology, *Department of Sociology*, Brock University, St. Catharines, Ontario. (Tenure Track, July 1, 2004 – to April 2009).

Assistant Professor of Critical Criminology, *Department of Criminology & Criminal Justice*, St. Thomas University, Fredericton, New Brunswick. (Tenure Track, July 1, 2003 – June 31, 2004).

Assistant Professor of Critical Criminology, *Department of Criminology and Criminal Justice*, St. Thomas University, Fredericton, New Brunswick. (Full-Time, Limited Term Appointment, July 1, 2002- July 1, 2003).

Assistant Professor of Critical Criminology, *Department of Sociology and Anthropology*, University of Windsor. (Full-Time, Limited Term Appointment: July 1, 2000- July 1, 2002).



Assistant Professor of Critical Criminology. *Department of Sociology*, University of Calgary. (Full-Time, Limited Term Appointment: September 1999- July 2000).

Course Instructor, *Sociology of Law and Law Enforcement*, the University of Toronto at Scarborough. (Summer Session, 1999).

#### RESEARCH GRANTS OBTAINED:

- 2012 SSHRC Partnership Grant Awarded. Title: *Pathways to Prosperity: New Policy Directions and Innovative Local Practices for Newcomer Attraction and Integration*. Role: Collaborator. Principle Investigator: Dr. Victoria Esses, Department of Psychology, The University of Western Ontario. **The Partnership Grant is valued at \$2.5 million over seven years.**
  - 2011 SSHRC Standard Research Grant Awarded. Title: *Sexual Orientation and Gender Identity in the Legal Profession: Invisibility, Disclosure, and Equality*. Role: Collaborator. Principle Investigator: Dr. Audrey Kobayashi, Queen's University. Value: **\$174,000.00**. File Number: 410-2011-1940. CIN: 20428.
  - 2006 SSHRC Standard Research Grant Awarded. Title: *Making Hate Crime: A Study of Police Work*. Role: Principle Investigator. **Value: \$47,498.00**. File Number: 410-2006-1827. CIN: 67094.
  - 2005 Department of Justice (Canada), "Anti-Violence Project," EGALE Canada (Equality for Gays and Lesbians Everywhere (Collaborator). **Value: \$50,000.00**. Collaborator.
  - 2001 Department of Justice (Canada) Report: *Researching Evidence of Hate Propaganda: A Conceptual Report*. (Principle Investigator). **Value: \$13,000.00**. Department of Justice Canada Working Document. Research, Statistics and Evaluation Directorate/Direction generale de la recherche, de la statistique et de l'évaluation, Policy Sector/Secteur des politiques. **Contract Number 4500017980**.
  - 2000 Department of Justice (Canada). Consultant, "Women Hurting Women Resource and Training Project," Calgary, Alberta. Public Legal Education Network of Alberta (PLENA) and the Calgary Foundation. (Collaborator) **Value: \$10,000.00**.
  - 1998 Ontario Women's Directorate. Consultant, "Lesbians Working to End Violence in Lesbian Relationships," Toronto, Ontario. (Collaborator). **Value: \$10,000.00**.
  - 1997 The Department of Justice. Report: *Anti-Gay/Lesbian Violence in Toronto: The Impact on Individuals and Communities*. The 519 Church Street Community Centre, Toronto, Ontario. (Collaborator). **Value: \$5,000.00**. Department of Justice Canada: Research and Statistics Division/Policy Sector. **No. TR1997-e**. Ottawa: Government Printer.
-

## **PUBLICATIONS:**

### **BOOKS**

Ellen Faulkner and Janice Hill (Eds.) (In Progress). *Violence in Canada: An Anthology of Contemporary Issues*, de Sitter Publications, Whitby, Ontario.

Ellen Faulkner and Jane Miller-Ashton (Eds.) (In Progress). *Where is the 'Community' in Corrections? A Reader in Canadian Community Corrections*.

Ellen Faulkner and Gayle MacDonald (Eds.). April 2009. *Victim No More: Women's Resistance to Law, Culture and Power*. Fernwood Publishing: Black Point, Nova Scotia. ISBN: 978-1-55266-295-3. (Refereed).

### **ARTICLES IN REFEREED JOURNALS (with inclusive page numbers)**

Faulkner, E. 2006/07. "Homophobic Hate Propaganda in Canada." *Journal of Hate Studies, Special Issue on "Hate and Communication."* Volume 5(1):63-98. Gonzaga University School of Law, Institute for Action Against Hate.

Faulkner, E. Winter/Spring 2006. "Homophobic Sexist Violence in Canada: Trends in the Experiences of Lesbian and Bisexual Women In Canada." *Canadian Woman Studies: Special Issue on Violence Against Women*. 25(1,2): 154-161.

Faulkner, E. 2003. "Researching Anti-Gay/Lesbian Violence in Canada: Methodological and Definitional Issues." *International Journal of Comparative Criminology*. (IJCC) 3(3):149-174.

Faulkner, E. 2001. "Hate Crime in Canada: An Overview of Issues and Data Sources." *International Journal of Comparative Criminology*. 2(2): 239-261.

Faulkner, E. 2001. "Empowering Victim Advocates: The Community Response to Anti-Gay/Lesbian Violence in Canada." *Critical Criminology: An International Journal, A Special Theme Edition on Criminology, Empowerment and Social Justice*. 10(2):123-135.

Faulkner, E. 1991. "Lesbian Abuse: The Social and Legal Realities." *Queen's Law Journal*. 16(2) (Summer), 261-286.

Faulkner, E. 1989. "The Case of 'Baby M'." *Canadian Journal of Women and the Law/Revue Juridique La Femme Et Le Droit*. 3(1):239-245.

### **CHAPTERS IN BOOKS (with inclusive page numbers)**

Faulkner, Ellen and Janice Hill. (Under Review). 2012. "Introduction." *Violence in Canadian Society: Contemporary Issues*. Toronto: de Sitter Publications. (unpublished)

Faulkner, Ellen (Under Review). 2012. "Community Responses to Violence." In Ellen Faulkner and Janice Hill (Ed.), *Violence in Canadian Society: Contemporary Issues*. Toronto: DeSitter Publications. (unpublished).

Faulkner, Ellen. (In Progress). 2012. "Vancouver's Community Court: Teaching Community Corrections at Kwantlen University." Ellen Faulkner and Jane Miller-Ashton (Eds.) *Where is the Community in Canadian Community Corrections?: A Canadian Reader*. (unpublished).

Faulkner, Ellen. 2011. "Sexualities and Difference: The Criminalization of Lesbian, Gay, Bisexual, Transgendered, and Queer (LGBTQ) People in Canada." In Barbara Perry (Ed.), *Diversity, Crime and Justice in Canada*. Toronto: Oxford University Press.

Faulkner, E. 2009. "Lesbian, -Gay, -Bisexual, and -Transgendered Victimization in Canada and the United States: A Comparative Study," In Volume 3: *Victims of Hate Crime: A Five Volume Set*. Ed. Barbara Perry. Praeger: Westport, Connecticut: London. 121-151.

Ellen Faulkner (Brock University) and Gayle MacDonald (St. Thomas University). April 2009. "Introduction: Agency and Resistance: Debates in Feminist Theory and Praxis." Ellen Faulkner and Gayle MacDonald (Eds.). *Victim No More: Women's Resistance to Law, Culture and Power*. Fernwood Publishing, Black Point, Nova Scotia. Pgs. 1-24. ISBN: 978-1-55266-295-3.

Faulkner, E. 2001. "Woman-to-Woman Abuse: Analyzing Extant Accounts of Lesbian Battering." George S. Rigakos and Kevin D. Bonnycastle (Eds.) *Unsettling Truths: Battered Women, Policy, Politics, and Contemporary Research In Canada*. Vancouver: The Collective Press, 52-62.

## BOOK REVIEW

Faulkner, E. 2003. "Book Review: *No More Secrets: Bearing Witness to Violence in lesbian Relationships*." (Routledge, 2002) by Janice L. Ristock. *Resources For Feminist Research*. 29(3/4): 260-263.

## TECHNICAL WRITINGS/REPORTS/DISCUSSION PAPERS

Faulkner, E. 2005. *Anti-Gay/Lesbian Violence in New Brunswick: The Impact on Individuals and Communities*. A Report for Pride Fredericton, Fredericton, New Brunswick.

Faulkner, E. 2002. *Researching Evidence of Hate Propaganda: A Conceptual Report*. Department of Justice Canada Working Document. Research, Statistics and Evaluation Directorate/Direction generale de la recherche, de la statistique et de l'evaluation, Policy Sector/Secteur des politiques. **Contract Number 4500017980**. Ottawa: Government Printer.

Faulkner, E. 2001. *Anti-Gay/Lesbian Violence in Calgary, Alberta: The Impact on Individuals and Communities*. A Report for the Gay and Lesbian Communities/Police Liaison Committee. Calgary, Alberta: Calgary Police Services.

Faulkner, E. et al. (Co-author) 2000. Discussion Paper. The Research and Data Collection Working Group. June 21, 2000. "Thoughts for The Future: A Discussion Paper." Prepared for the Honourable Hedy Fry, P.C. M.P. Secretary of State (Multiculturalism) (Status of Women). See *Report: Hate and Bias Activity Roundtable*. Ottawa, Ontario. (February 10 and 11, 2000) Ottawa. (With Derek Janhevich, Project Manager, Canadian Centre for Justice Statistics, Statistics Canada; Karen Mock, National Director, League for Human Rights of B'nai Brith Canada; Doug Findlater, Heritage Canada; Steven Bittle, Research Analyst, Justice Canada; Alan Dutton, Executive Director, Canadian Anti-Racism Education and Research Society; Yvonne Ko, Policy Analyst, Calgary Police Services; Mimi Lo, Department of Heritage; Leslie Reaume, Centre for Research on Violence Against Women and Children; and Victor Janoff, Department of Criminology, Simon Fraser University).

Faulkner, E., Dr. Carolyn Anderson and Jane Oxenbury Eds. 2000. Report: *Women-Hurting Women Training Manual for Professionals*. Department of Justice, Canada, Public Legal Education Network of Alberta (PLENA) and The Calgary Foundation.

Faulkner, E. 1997. *Anti-Gay/Lesbian Violence in Toronto: The Impact on Individuals and Communities*. A Project of the 519 Church Street Community Centre Victim Assistance Programme. Department of Justice Canada: Research and Statistics Division/Policy Sector. No. **TR1997-e**. Ottawa: Government Printer.

## THESES

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Faulkner, E. 1999. (unpublished). *A Case Study of the Institutional Response to Anti-Gay/lesbian Violence in Toronto*. Ph.D. Thesis. Department of Sociology and Equity Studies in Education. Toronto, Ontario: Ontario Institute for Studies in Education of the University of Toronto.

Faulkner, E. 1991. (unpublished). *Lesbian Battering and Feminist Theory*. M.A. Thesis. Department of Sociology. Kingston, Ontario: Queen's University.

Faulkner, E. 1989. (unpublished) *Invisible Oppressions: Lesbians at Queen's University*. B.A. Honours Undergraduate Thesis. Department of Women's Studies. Kingston, Ontario: Queen's University.

## CAREER TOTALS -

Book (Anthology)	1 (one in progress)
Book (Reader/Textbook)	1 (one in progress)
Chapters in Books	5 (three in progress)
Articles in Refereed Journals	7
Papers in Refereed Conference Proceedings	9
Technical Writings/Reports	4
Abstracts and/or Papers Read	11
Other (invited addresses/workshops)	15
Citations	22

## **CURRENT RESEARCH PROJECTS:**

**SSHRC Partnership Grant Awarded March 2012.** Title: Pathways to Prosperity: New Policy Directions and Innovative Local Practices for Newcomer Attraction and Integration. Role: Collaborator. Principle Investigator: Dr. Victoria Esses, Department of Psychology, The University of Western Ontario. Value: \$2.5 million dollars over seven years.

The 2012 “Pathways to Partnership” application was successful. The research project valued at \$2.5 million will be funded by SSHRC over a seven year period and involves working with forty other academics and community activists across Canada. The goals of “Pathways to Prosperity” is to: (1) work with and provide support to small and mid-sized communities across Canada in their efforts to become more receptive and better able to serve the needs of newcomers and minorities, (2) equip community organizations and municipal governments with the tools – analytic capacity and information – they need to devise and implement evidence-based strategies that address challenges in immigration, inclusion, local development, and economic and social sustainability and, (3) to work with practitioners and policymakers to help clarify strategic priorities, conduct analyses, and improve policies and programs through the co-creation of knowledge.

**SSHRC Standard Research Grant - Awarded April 2011. *Sexual Orientation and Gender Identity in the Legal Profession: Invisibility, Disclosure, and Equality*.** Team Members: Principle Investigator: Audrey Kobayashi, Department of Geography, Queen's University: Co-Investigators: Dr. Barry Adam, Department of Sociology, University of Windsor, Professor Kathleen Lahey, Faculty of Law, Queen's University, Dr. Kevin Alderson, Department of Psychology, University of Alberta.

## **THE PROBLEM TO BE ADDRESSED:**

This project is a sustained empirical, socio-legal study of the complexities and challenges faced by lesbian, gay, bisexual, transsex/gender, two-spirited, and intersex members of the Canadian legal profession as they negotiate issues of invisibility, disclosure, and acceptance by employers, colleagues, clients, judges, and communities in shaping their lives and careers.

Since the early 1960s, law and sexuality discourses have revolved around whether people characterized by their sexual orientation/gender identity are entitled to be treated equally. Lesbian, gay, bisexual, transsex/gender, two-spirit, and intersex lawyers have often played crucial roles in bringing about law reform, litigation, and institutional changes that have eliminated many deeply-entrenched forms of discrimination. In the intensity of these efforts, little attention has been paid to how lawyers, judges, teachers, and other members of the profession who are themselves characterized by their sexualities have fared as professionals. Our study centres on these legal professionals, asking three basic questions: Where are such individuals located in the legal profession, especially those who are also characterized by gender, race, Aboriginal heritage, immigration status, disability, or economic class? What forms of bias do they encounter in legal institutions? And what steps would substantively integrate them into all aspects of the legal profession and justice system? Through in-depth analysis of the structure, organization, and personnel of the legal profession, we aim to develop a coherent conceptual framework that will explain and theoretically situate LGBTTTI lawyers in professional formations and in their personal and work lives. Of particular interest will be how the specific dynamics of invisibility and

disclosure might produce tension between work and nonwork life or affect lawyers' overall satisfaction with their professional identities.

This study will use both qualitative and quantitative research methods to obtain comprehensive results. Qualitative research will focus on the legal and regulatory framework governing the legal profession and the many steps that have already been taken in recognizing diversity within the profession, and will include interviews with lawyers, teachers, judges, law firm, and other employers to identify key issues. Quantitative research will be obtained through online surveys to obtain information on as many LGBTTTI lawyers from all regions as possible.

#### **POTENTIAL CONTRIBUTION:**

This research will advance academic understanding of the situation of LGBTTTI lawyers in the profession with a strong focus on how their personal identities might affect their employment status and impact their human rights. In addition, this project will identify strategies, policies, and practices that can counter existing bias, pressure toward non-disclosure, and discrimination in a self-regulating profession such as the legal profession.

#### **CONSULTING:**

- 2007 **REVIEW COMMITTEE MEMBER – COMMUNITY HATE CRIMES RESPONSE GRANTS (CHARG).** Volunteer Reviewer, Ministry of the Attorney General, Ontario Victim Services Secretariat, Toronto, Ontario. In October 2007 I will serve as a community grants reviewer of innovative community initiatives that serve to enhance community capacity to assist victims of hate crimes. The review committee is comprised of a member of the board of the Office for Victims of Crime (an agency to advise the Attorney General on ways to ensure that the principles set out in the Victims' Bill of Rights are respected); six community experts in addressing hate crimes, and a senior OVSS ministry staff member. The committee will review the proposals over a period of 3-5 days in October 2007, and suggest potential grant recipients to the Attorney General.
- 2007 **CONSULTANT - Addressing Hate Crime In Ontario: Strategy, Recommendations and Priorities for Action: From 2005 to 2007.** I presented my academic research on anti-gay/lesbian violence in Canada to the Hate Crime Working Group. I was also consulted on recommendations for the final report. In December 2005, the Attorney General and Minister of Community Safety and Correctional Services appointed the Hate Crimes Working Group consisting of 10 members with expertise in countering and preventing hate crime, and a strong understanding of current services for victims of hate crime and hate incidents. The Working Group's mandate was to advise the government on an overall strategy to address individual and community-based victimization, and related issues arising from hate crimes. The Working Group held regional community meetings, distributed an electronic questionnaire to stakeholders, and conducted several focus groups and discussion sessions with a variety of community organizations and individuals. The Working Group also met with key Ontario government staff, members of police services, academics, leaders of institutions and agencies, and community-based lawyers with experience in this area. *Final Report: Addressing Hate Crime In Ontario: Strategy, Recommendations and Priorities for Action.* Ontario: Ministry of the Attorney General

and the Minister of Community Safety and Correctional Services. The report entitled "*Addressing Hate Crimes in Ontario: Strategy, Recommendations and Priorities for Action*" can be accessed at the Ministry of the Attorney General website.

- 2005 **CONSULTANT.** *Developing a Preliminary Network to Combat Homophobic and Transphobic Violence.* Interim Report to Justice Canada. Ottawa: Equality for Lesbians and Gays (EGALE). With Gens Hellquist, Pierre Blain Benji Pereira, Gabe Saulner, Kevin Kindred, Christine Schulz, Kim Allen, Howard Shulman, Peter Toppings, Doug Janoff. Worked with Egale partner organizations and the Canadian Anti-Violence Project (CAVP) to: 1) Compile a list of individuals and organizations across Canada engaged in supporting survivors of violence; 2) Develop and launch a website that promises to be an effective tool for information-sharing, public education and linking survivors to support; 3) Organize and hold an in-person national planning session for community leaders, and 4) Lay the groundwork for a national strategy and network on justice and violence-related issues in the LGBT communities.
- 2002 **CONSULTANT AND RESEARCHER.** *Submissions to the House of Commons Standing Committee on Justice and Human Rights re; Bill C-250 Hate Propaganda.* Ottawa: Equality for Gays and Lesbians Everywhere.
- 2002 **CONSULTANT.** Department of Justice, Canada. *Consultation Guide for the 2004 GSS - Victimization and Perceptions of Crime and Justice – Cycle 18* (Housing, Family and Social Statistics Division, Statistics Canada).
2002. **PRINCIPAL RESEARCHER.** Department of Justice, Canada. *Researching Evidence of Hate Propaganda: A Conceptual Report.* Department of Justice Canada Working Document. Research, Statistics and Evaluation Directorate/Direction generale de la recherche, de la statistique et de l'évaluation, Policy Sector/Secteur des politiques. Supervisor: Mr. Steven Bittle. The purpose of this report is to provide a conceptual "think-piece" that explores evidence of materials that would constitute hate propaganda under sections 318 or 319 of the *Criminal Code*, against groups not presently covered by the definition of identifiable group. In particular, evidence of hate propaganda targeting individuals on the basis of colour, race, national or ethnic or national origin, religion, sex, age, mental or physical disability, or sexual orientation (referred to as expanded groups). The goals of this research are twofold: 1) Explore the conceptual and methodological grounds for conducting research of materials that would constitute hate propaganda against the aforementioned expanded groups. 2) Determine if there is reasonable prima facie evidence of hate propaganda against the aforementioned expanded groups. Methods Used in this Report. To evaluate the methodological grounds for conducting research of materials that would constitute hate propaganda against the aforementioned expanded groups, the report: 1) reviews and analyses the legal and multi-disciplinary literature and case law to identify relevant issues and themes; 2) documents international responses; and, 3) explores the extent and nature of hate propaganda against the expanded groups, making recommendations with respect to appropriate methodology and information resources, and ; 4) discusses the feasibility and outlines the next steps in a process of researching evidence of hate propaganda against the expanded groups. My hate propaganda report was

instrumental in discussions about including sexual orientation as a protected category in the criminal code and is cited in 37<sup>th</sup> Parliament, 2<sup>nd</sup> Session. Standing Committee on Justice and Human Rights as evidence in support of the inclusion of sexual orientation as a protected category in the hate propaganda provisions of the Criminal Code. Tuesday May 6, 2003.

- 2001 **CO-INVESTIGATOR.** *Survey of Anti-Gay/Lesbian Violence.* I worked with the Calgary Police Services Lesbian and Gay Police Liaison Committee to develop a survey of anti-gay/lesbian violence for distribution during Lesbian and Gay Pride Week in Calgary during the summer of 2000. I wrote a report based on the data which was collected during the summer. Report Title: *Anti-Gay/Lesbian Violence in Calgary, Alberta.* (April, 2001).
- 2001 **CONSULTANT.** *Hate Crime Study. Consultation Document for the Feasibility of Collecting Police-Reported Hate Crime Statistics,* by Derek Janhevich, Canadian Centre for Justice Statistics, Statistics Canada. I was one of three academic consultants (Dr. Julian Roberts, Department of Criminology, University of Ottawa and Dr. Scot Wortley, Centre of Criminology, University of Toronto) asked to provide feedback on the consultation document by the Canadian Centre for Justice Statistics. The objective of the consultation was to determine the information needs of community groups and academics as input to the establishment of National Data Requirements (NDRs) for a pilot survey on hate crimes in Canada. Interviewer: Derek Jahnevich, Project Manager, Hate Crime Study, Statistics Canada, Canadian Centre for Justice Statistics. (Canadian Centre for Justice Statistics. 2002. *Hate Crime Study: Summary Results of Consultations.* Statistics Canada: Canadian Centre for Justice Statistics. Catalogue no. 850557-XIE.).
- 2000 **CONSULTANT.** Canadian Heritage Multiculturalism. Hate and Bias Activity Roundtable. Ottawa: Ontario. Participated in Canadian Heritage – Multiculturalism Roundtable as a consultant in the area of anti-gay/lesbian violence. I participated on the Research and Data Collection Working Group at the Hate and Bias Activity Roundtable. (February 10 and 11, 2000 Ottawa). Report: Hate and Bias Activity Roundtable (February 10 and 11, 2000) Ottawa. Prepared for the Honourable Hedy Fry P.C., M.P. Secretary of State (Multiculturalism) (Status of Women). “Knowing that action on this issue must be taken promptly, the Secretary of State for Multiculturalism and Status of Women, Dr. Hedy Fry, convened a Hate and Bias Activity Roundtable in Ottawa on February 10 and 11, 2000. The goal of the roundtable was to bring together stakeholders from government and civil society, as a first step in developing a co-ordinated national anti-hate action plan. The roundtable was a follow-up meeting to the National Planning Meeting on Hate Crime and Bias Activity, which took place on April 16 and 17, 1997. The 1997 Planning Meeting had a twofold objective of identifying priority issues requiring action and recommending processes through which government and other stakeholders could best address these issues.”
- 2000 **CO-INVESTIGATOR.** Evaluation of Women-Hurting-Women Subcommittee Professional Training with respect to Same-Sex Violence. Research and Education for Solutions to Violence and Abuse (RESOLVE), Alberta c/o Department of Anthropology, SS854, University of Calgary. 2500 University Drive NW, Calgary, Alberta. T2N 1N4.



- Phone: (403) 220-8634. Fax: (403) 210-8117. Dr. Leslie Tutty, Academic Research Coordinator and Kendra Nixon, Community Research Development Coordinator. for the "Women Hurting Women Workshops Evaluation – Final Report," by Leslie Tutty, PhD and Kendra Nixon, B.A., B.S.W., RESOLVE Alberta. (October 2000).
- 2000 **RESEARCH ADVISORY TEAM MEMBER** with Dr. Carolyn Anderson, Department of Social Work, Mount Royal College, Jane Oxenbury, Edan Counselling Associates, Rae-Anne Wood-Schatz, Executive Director, Peer Support Services for Abused Women and Janine Thompson, Field Placement Practicum student, Mt. Royal College, Calgary I worked with the research advisory team as a consultant to provide advice on the development of the training manual and workshop guidelines. I then worked with the research advisory team to develop and co-facilitate workshops on violence in same-sex relationships. A daylong workshop was presented to service providers in Calgary. A final report was published: Report: *Women-Hurting-Women Training Manual for Professionals*. (co-editor). Department of Justice, Canada, Public Legal Education Network of Alberta (PLENA) and The Calgary Foundation.
- 1999 **EVALUATION CONSULTANT**. *Study Group Pilot Project* (Dr. David Clandfield). New College, University of Toronto, April - June. I developed and distributed an online survey to assess the Study Group Pilot Project offered through New College, The University of Toronto. I analysed the qualitative data and wrote a final report.
- 98-99 **EVALUATION CONSULTANT**. *Work Study Programme* (Dr. Avi Hyman) Education Commons, Ontario Institute for Studies in Education, University of Toronto, September - April.
- 95-97 **AUTHOR, RESEARCHER, CONSULTANT**. The 519 Church Street Community Centre Victim Assistance Programme Anti-Gay/Lesbian Violence in Toronto Project sponsored by the 519 Centre and funded by the Department of Justice (Canada). Report: *Anti-Gay/Lesbian Violence in Toronto: The Impact on Individuals and Communities. TR1997-e*. I worked with the Community Response to Bashing Committee (CRBC) to develop a survey of anti-gay/lesbian violence for distribution during Lesbian and Gay Pride Week in Toronto during the summer of 2005. I analysed the data and wrote a report in consultation with the Community Response to Bashing Committee for the Department of Justice (Canada). Committee Members: Karen Baldwin, Deborah Hierlihy, Greg Pavelich, Ed Pollak, Alisa Wing, Frank Butler, Angela Street, John Archer, Doug Kerr, Ellen Faulkner.

#### **INTERNAL ACADEMIC AWARDS**

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- 2006 Experience Works Program Grant Brock University, Summer 2006. **Value: \$5,095.00.**
- 2005 Brock University Experience Works Grant to employ a student during the school year for the *Making Hate Crime: A Study of Police Work* project, Winter 2005. **Value: \$4,442.58**
- 2005 *Brock University BUAF Special Needs Fund* for the purpose of editing a manuscript for publication. **Amount Awarded: \$1,000.00.**
- 2004 SSHRC Internal Seed Grant awarded by Brock University for *Making Hate Crime: A*

- Study of Police Work* project. **Value: \$3,500.00**
- 2004 *Experience Works Grant*, to employ a summer student for the *Making Hate Crime: A Study of Police Work* project, awarded from Brock University. **Value: \$7,500.00**
- 2004 *Research Start Up Fund* awarded by Brock University. **Value \$6,000.00.**
- 2004 *Course Release* (2004-2005). One half course release awarded from Brock University in the first year of employment. **Value: \$4,500.00**
- 2004 *Course Release* (2004-2005) from the Senate Research Committee, St. Thomas University for the purpose of editing a manuscript for SSHRC's Aid to Scholarly Publication (ASP) and the University of British Columbia Press. **Value: \$3,500.00**
- 2003 *Course Release* (2003-2004) for the purposes of completing and submitting a SSHRC application, Senate Research Committee Award, Thomas University, Fredericton, New Brunswick. **Value: \$3,500.00.**
- 94-99 *Graduate Assistantship*, Ontario Institute For Studies In Education of the University of Toronto, Sociology and Equity Studies in Education. **Awarded Annually: \$9,000.00.**
- 93-94 *Graduate Assistantship*, University of Toronto, Department of Sociology, **Awarded Annually: \$9,000.00.**
- 90-92 *Graduate Assistantship*, Queen's University, Department of Sociology. **Awarded Annually: \$8,500.00.**
- 1990 *Dean's Award*, Queen's University at Kingston. **Value: \$2,500.00.**
- 1990 *Queen's Graduate Award*, Queen's University at Kingston. **Value: \$1,000.00.**
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### Supervision and Directed Studies

Second Reader, undergraduate B.A. Honours Thesis, Barbara Becker, "*Sometimes 'Good' Just Isn't Good Enough: An Exploration into the Lived Experiences of Methadone Maintenance Patients.*" Department of Sociology, Brock University.. Thesis Supervisor: Dr. Judith Blackwell, Department of Sociology. August 2005.

### III. Independent Study Supervision

*Directed Studies* , Brock University. Supervised Sara Shurr, a fourth year undergraduate student during the summer of 2005 in a Directed Studies Course on the topic of biphobia. Paper title: "A Review of Biphobia Literature." Summer 2005.

*Directed Studies* , Brock University. Supervised Pamela Murray, a fourth year undergraduate student in a Directed Studies Course on the topic of Canadian and international legal regulation of sexual abuse of children on the internet. SOCI4P33, Advanced Issues in Law and Society, Brock University. Paper title: "Innocent Victims: Child Pornography and the Internet." Fall 2005.

Directed Studies, Brock University. Supervised Drew Moir, a fourth year undergraduate student in a Directed Studies Course focusing on "A Case study of the Neil Stonechild Murder Trial", Saskatoon, Saskatchewan. Winter 2006.

*Directed Studies*, Brock University. Supervised M.A. in Social Justice and Equity Studies student Lysanne Louter in a Directed Studies Course, SJES 5V14 - Advanced Issues in Law and Society,

Brock University. Lysanne went on to present her work at the Social Sciences and Humanities, Canadian Sociology Association Annual Meetings at the University of Western Ontario. The paper that Lysanne wrote for my course is being published in the *Canadian Online Journal of Queer Studies in Education*. Paper title: "Free Speech and Reporting on Rights: Canadian Newspaper Treatment of Hate Propaganda Legislation." Fall 2004.

## **TEACHING EVALUATIONS**

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Kwantlen Polytechnic University student evaluations September 2011- April 2012. CRIM 1101 Introduction to the Criminal Justice System (three sections); CRIM 2214 – Corrections: Theory and Practice; CRIM 3213 – Community Corrections; CRIM 2249 – Youth Justice; CRIM 2330 – Psychological Explanations for Criminal Behaviour.

Ryerson University student evaluations September 2010 – December 2010 CCRM 300 Policing in Canadian Society; May – August 2010- CCRM 601 Violence in Canadian Society (two sections).

Brock University student Evaluations (2005-2006): SOCI3P33: 4.07/5; SOCI3V84: 3.91/5; SOCI4P33: 4.54/5;

Brock University student evaluations (2004-2005): SOCI2P61:4.16/5 (Fall 2004); SOCI4P33:4.67/5 (Fall 2004); SOCI3P33: 4.5/5 (Winter 2005)

St. Thomas University, student evaluations (2002-2004): CRIM4303: 4.26/5; CRIM2943: 4.08/5; CRIM2243: 4.01/5; CRIM4304: 4.24/5; CRIM2943: 4.44 /5; CRIM1006C1: 3.72/5; CRIM1006D1: 3.69/5

University of Windsor, student evaluations (Six courses). Department of Sociology and Women's Studies: 3.50 out of 5.0 average 70% (2001-2002).

University of Windsor, student evaluations Ranked 3<sup>rd</sup> in Department. (2000-2001). 3.96 out of 5.0 average 79.2% (five courses).

## **PRESENTATIONS:**

### **I. ACADEMIC**

2012 – Engaged Learning Symposium, Kwantlen Polytechnic University (May 17, 2012)

Title: The Vancouver Community Court: Engaging Students in Community Corrections

Theme: Applied Learning

Students in CRIM 3213 – Community Corrections at Kwantlen Polytechnic University engaged in a research project for their third year criminology class during the Spring 2012 session. The assignment required students to attend and evaluate the Vancouver Community Court, a pilot project in downtown Vancouver, as a component of their course evaluation. Students then wrote a

report and presented their findings to their colleagues. For the most part students provided positive feedback. The requirement to leave the classroom environment and engage with community partners enhanced students' learning experience. The unique nature of the Vancouver community court contrasts with the formalized court processes seen in traditional courtrooms. This presentation will provide knowledge about the applied problem-based assignment and research findings and link these with enhanced learning initiatives with multiple communities that intersect with the Downtown Community Court.

## **I. International**

1999. "Building Community: Institutional Responses to Anti-Gay/Lesbian Violence in Toronto 1990-1998." Fourth International Metropolis Conference, Washington, D.C.). (Co-Presenters, Dr. Julian V. Roberts, Criminology, University of Ottawa; Dr. Wesley Crichlow, Department of Law, Carleton University). For the *Justice and Law: Hate Crimes in Canada* workshop sponsored by the Department of Justice and Canadian Heritage. Centre for Excellence in Research on Immigration and Settlement, (CERIS). Fourth International Metropolis Conference, Washington, D.C.: December 8-11, 1999.

## **II. National**

2005. *ACS American Criminological Society Meetings*, Toronto, Ontario. Paper title: "Hate as a Social Problem: Problematizing Hate Crime Data Collection Processes." November 16, 2005.

2005. *CSAA Canadian Sociology & Anthropology Association Annual Meeting*, University of Western Ontario, London, Ontario. May 31 & June 3, 2005. *Session: Victim No More? Women Resisting the Label of Law* (Chaired by Dr. Gayle MacDonald). Paper title: "Victims Still?: The Political Manipulation of Hate Crime Victims." with other panelists, Deborah Parnis (Trent University) & Janice Dumont (co-author) and Gillian Balfour (University of Toronto). May 31, 2005.

2005. *CSAA Canadian Sociology & Anthropology Association Annual Meeting*. University of Western Ontario, London, Ontario. *Session: Critical Criminology III*. Organizer: Dr. Bryan Hogeveen (University of Alberta). Faulkner, Ellen. "Hate as a Social Problem: Problematizing Hate Crime Data Collection Processes." with other panelists, Linda Deutschmann (University College of the Cariboo) and Michael Atkinson (McMaster University). Thursday, June 2, 2005.

2005. *CWSA Canadian Women's Studies Association Annual Meeting*, University of Western Ontario, London, Ontario. Chaired a Session: *Law and Hegemonic Language*. Cross-listed with CSAA May 31, 2005.

2002. "'But Women Do It Too': Analyzing Extant Accounts of Lesbian Battering." *Session: Criminology, Deviance, Socio-Legal Studies. Theorizing Violence Against Women: Negotiating the "Women as Violent Too" Boundary*. Presenters: Colleen Anne Dell, Carleton University, Ruth Mann, University of Windsor, Walter S. DeKeseredy and Martin Schwartz, Ohio University. Organizer: Dr. Ruth Mann. Department of Sociology & Anthropology, University of Windsor. Canadian Sociological Association Annual Meetings (CSA) Congress 2002. University of

Toronto June 1, 2002.

2002. "Researching Hate Crime In Canada: The Impact on Social Policy Responses." *Criminology, Deviance, Socio-Legal Studies*. Session: *Hate Crime and Diversity in the Justice System*. Canadian Sociological Association Annual Meetings (CSAA) Congress 2002, University of Toronto. Presenters: Derek Jahnevich, Canadian Centre for Justice and Karen Mihorean, Canadian Centre for Justice. Organizer: Karen Mihorean. June 1, 2002.

2001. "Researching Sexual Orientation Hate Crime: Problems of Othering and Exclusion," for the session, *Researching Hate Crime in Canada*. Session Organizer: Dr. Ellen Faulkner, The Canadian Sociological Association Annual Meetings, (CSAA) Congress 2001, Laval Quebec. (Co-presenters: Ann Field, Carleton University; Steven Bittle, Department of Justice): May 27, 2001.

2001. Session Organizer: *Researching Hate Crime In Canada*, at the Annual Canadian Sociological Association Annual Meetings, (CSAA) Congress 2001, Laval Quebec. Presenters: Steven Bittle, Research and Statistics Division, Department of Justice Canada, Ellen Faulkner, University of Windsor, Rhoda E. Howard-Hassman, McMaster University, Matthew Lauder, Lancaster University, England. May 26-30, 2001.

2000. "The Importance of Integrating an Examination of Race/Ethnicity in Studies of Anti-Gay/Lesbian Violence." Session: Justice and Law: Hate Crime in Canada, with Derek Janhevich, Canadian Centre for Justice Statistics, Detectives Samuel Samm and Dino Doria, Hate Crime Unit, Toronto Police. CERIS: Working Together for the Future: Building Partnerships in Immigration Research and Policy. Fourth National Metropolis Conference, March 22-25, 2000, Metropolitan Hotel, Toronto. March 23, 2000.

2000. Panelist. Domestic Violence. "Legal Remedies for Abused Lesbians." *Equality: The Challenge of the new Millenium*. 13<sup>th</sup> Biennial Conference. National Association of Women and the Law. Calgary, Alberta. May 6, 2000.

1999. "Hate Crimes: Research and Policy after Matthew Shepard's Murder." Department of Adult Education, Community Development & Counselling Psychology Wednesday Noon Speaker's Series. Dr. Roy Gillis, Dr. Ellen Faulkner, Gina Di Giulio, Ontario Institute for Studies in Education. February 17, 1999.

1988. *Anti-gay/lesbian Violence and Social Inequality in Canada*, presented at the Canadian Lesbian and Gay Studies Association. 1998 Congress of the Social Sciences and Humanities University of Ottawa. May 1988.

1996. *Hate Crimes and the Lesbian and Gay Community: An Assessment of Incidences and Victim Impact* presented at the Canadian Lesbian and Gay Studies Association. 1996 Congress of the Social Sciences and Humanities . Brock University. June 1996.

1995. *The Politics of Organizing Lesbian Battering Workshops in Canada*, presented at the Second Annual Conference of the Canadian Lesbian and Gay Studies Association. 1995 Congress

of the Social Sciences and Humanities, Montreal. June, 1995.

### **III. Regional**

2005. *Crime, Law and Justice in Context*, Canadian Society of Criminology Annual Meetings, York University. Paper title: "Hate as a Social Problem: Problematizing Hate Crime Data Collection Processes." April 9-10, 2005.

1999. *Drawing Parallels between Anti-Lesbian Violence and the Continuum of Violence Against Women: Findings from a Toronto Survey*, presented at *Violations: Gender-Based Risks in Women's Lives*, Conference Sponsored by the Department of Sociology, University of Toronto April 15, 1999.

1998. "Anti-Gay/Lesbian Violence and Social Inequality in Canada," presented at University of Toronto Centre of Criminology Graduate Student's Conference April, 1998.

1998. "The Institutional Response to Anti-Gay/Lesbian Violence in Toronto," presented at Queering the Nation, York University Student Centre Conference. June 24-27, 1998.

1998. "Anti-Gay/Lesbian Violence and Social Inequality in Canada," presented at Critical Sociology in the 1990's a one day conference featuring the work of Master's and Doctoral candidates in Sociology and Equity Studies in Education Ontario Institute for Studies in Education at the University of Toronto February, 1998.

1996 *Preliminary Findings from the Toronto Survey of Anti-Gay/Lesbian Violence*, presented at the Litigation and Lobbying Section of Up Against It: Legal Realities Confronting Gays, Lesbians and Bisexuals sponsored by the Queen's University Law Bisexuals, Lesbians and Gays (QLBAG) March, 1996.

### **COMMUNITY OR INVITED PRESENTATIONS :**

### **II. National**

2003. *Rainbow Visions: Building A Pan-Canadian Queer Agenda* at McGill University, Montreal, Quebec). Session title: *Researching Hate Crime in Canada: Emerging Community Voices*. Canadian research on anti-gay/lesbian violence is relatively new. To date, academics and community activists have not had the opportunity to work together to discuss their community activism, evaluate research issues and to share their research findings. This symposium brought together Canadian researchers/community activists who have conducted research in the area of hate crimes against diverse lesbian, gay, bisexual, two-spirited, transgendered, transexual, intersex and queer communities. The session presenters will discuss research findings in a number of important areas with the aim of sharing information about their research, organizing, strategizing and policy development. The symposium will provide a basis for moving forward with a pan-Canadian research agenda to document and respond to hate crimes experienced by diverse sexual minority communities across Canada. Symposium organizer: Dr. Ellen Faulkner, Department of Criminology & Criminal Justice, St. Thomas University. Participants: Dr. Roy

Gillis, Ontario Institute for Studies in Education of the University of Toronto, Doug Janoff, National Defense, Ottawa, Dr. Wesley Crichlow, Department of Law, Carleton University, and, Ann M. Field, Doctoral Candidate, Department of Political Science, Carleton University. May 16-19, 2003.

## II. Regional

2007 Presenter and Contributor. Hate Crime Working Group. *Final Report: Addressing Hate Crime In Ontario: Strategy, Recommendations and Priorities for Action*. Ontario: Ministry of the Attorney General and the Minister of Community Safety and Correctional Services. The report entitled "Addressing Hate Crimes in Ontario: Strategy, Recommendations and Priorities for Action" can be accessed at the Ministry of the Attorney General website.

2007. Presenter and Contributor. *Addressing Hate Crime in Ontario. Report of the Hate Crimes Community Working Group to the Attorney General and the Minister of Community Safety and Correctional Services*. Toronto: Attorney General of Ontario, 2007.

2006. Presenter. December 6<sup>th</sup> 2006 Memorial Brock University, St. Catharines, Ontario. Sponsored by the Department of Women's Studies. Title: "Heterosexist and Homophobic Hate Crime."

2006. Presenter, "Violence Against Gays and Lesbians in Canada: Findings from Community-Based Research." Hate Crimes Working Group, Ontario Victim Services Secretariat, Toronto, Ontario. April 6, 2006.

2005. Participant, Hate Crime Panel, Ontario Ministry of the Attorney General, Victim Services Secretariat, Toronto, Ontario. May 17, 2005.

2005. Invited Speaker, Women's Studies, Brock University in conjunction with WISE3P95, "Experiential Learning" -- "Violence Against Women in Relation to the Canadian Criminal Justice System," Guest Speakers: Jim Baskerville (Domestic Assault Unit, Niagara Regional Police), Marion Wright (Legal Advocate, Women's Place), Ellen Faulkner (Professor of Sociology, Brock University). Co-sponsored by Centre of Women's Studies at Brock University & Brock University Sociology Department. Pond Inlet, Brock University. January 24, 2005.

2004. Lecture, "Mental Health Issues Facing Victims of Anti-Gay/Lesbian Violence," In, Social Work and Lesbian, Gay, Bisexual, and Two-Spirited Peoples," taught by Professor Norma Jean Profitt, Department of Social Work, St. Thomas University March 31, 2004.

2003. Moderator; *Crime and the Media Symposium*, St. Thomas University, Session: "The Police Use of the Media to Deflect Charges of Racism," by Dr. Scott Wortley, Associate Professor, Centre of Criminology, University of Toronto; "What is a Hate Crime in the Media: Interrogating Media Treatment of Hate as an Aggravating Circumstance for Sentencing," by Steven Bittle, Senior Research Officer, Law Commission of Canada. October 16-17, 2003.

2003. Participant, three day workshop, "Making St. Thomas Safe for Gay and Lesbian Students:

How Courses and Student Life Go Together," co-sponsored by the Departments of Education, Social Work and Student Affairs as well as the St. Thomas AIDS Committee and APE (AIDS Peer Education a student-run organization). Title: "Homophobia and Bullying in Educational Institutions: What We Know from Research on Anti-Gay/Lesbian Violence in Canada." 2003.

2003. Lecture, Sponsored by the STU AIDS Committee and APE (AIDS Peer Educators). Dr. Ellen Faulkner of the Department of Criminology & Criminal Justice, "Homophobia and Bullying in Educational Institutions: Findings from Canadian Research on Anti-Gay/Lesbian Violence" 2003.

2003. Lecture, "Sampling Difficult to Research Populations," CRIM 3103, "Advanced Criminological Research Methods." Dr. Chris McCormick, Department of Criminology & Criminal Justice, St. Thomas University, Fredericton, New Brunswick. February 13, 2003.

2002. Lecture, *Hate Crime: Anti-Gay Lesbian Violence and Victim Activism*. Guest Lecturer, Gay and Lesbian Studies (48-351). Dr. Barry Adam, Professor, Department of Sociology & Anthropology, University of Windsor. February 12<sup>th</sup>, 2002.

2000. Participant. *Hate Bias Activity Roundtable II*. The Honourable Hedy Fry, Secretary of State (Multiculturalism) (Status of Women). Ottawa, Ontario. June 21-23, 2000.

2000. Participant. *Hate and Bias Activity Roundtable I: National Planning Meeting on Hate Crime and Bias Activity*, Ottawa. (The Honourable Dr. Hedy Fry, Government of Canada, Secretary of State for Multiculturalism and the Status of Women). February 10-11, 2000.

2000. Panelist. Hate Bias Activity Panel. "Hate Crimes: A Continuing Saga of Bigotry," Presented by: Gail Stern, University of Illinois. *The Realities of Life and Justice Conference*. Presented by the Department of Criminology and the Child Youth Care Program, Faculty of Continuing Education and Extension, Mount Royal College, Calgary, Alberta. March 21, 2000.

2000. Chair. Gender, Representation, and Canada. *Gender Research Symposium 2000*, presented by the Faculty of Graduate Studies, the Institute for Gender Research and the Graduate Women's Network. University of Calgary March 8-10, 2000.

2000. Co-Facilitator. *Women Hurting Women Training Workshop*. The Women Hurting Women Steering Committee, Ad hoc Committee of the Calgary Domestic Violence Committee. Peer Support Services for Abused Women. April 17 and May 15, 2000. Carol Anderson MSW, Jane Oxenbury, Chartered Psychologist, Ellen Faulkner, Ph.D. April 17 and May 15, 2000.

2000. *Research on Anti-Gay/Lesbian Violence in Toronto*. Interview with Stephen Lock, CJSW Radio Station, University of Calgary January 5, 2000.

## REFeree

2012 Invited Reviewer. (January 2012). Social Sciences and Humanities Research Council of Canada (SSHRC). Insight Grant, "Institutional Heterosexism in the Criminal Justice



- System: The Experience of Gay Men Involved in Partner Abuse,” submitted by Maurice Poon, School of Social Work, York University.
- 2012 Peer Reviewer. Spring 2012. *Interdisciplinary Journal of Critical Thought*, student-run and student-driven academic journal, Kwantlen Polytechnic University.
- 2011 “Blaming the Victim: The Role of Ambiguity in a Hate Crime Scenario” *The Journal of Homosexuality*. (Published by the Taylor & Francis Group, LLC).
- 2009 Reviewer, Mandell and Ann Duffy. 2010. “LGBTQ Families in Canada: Private Lives and Public Discourses.” In *Canadian Families: Diversity, Conflict and Change*. 4<sup>th</sup> Edition. Nelson Canada/ Education.
- 2007 Reviewer, *Feminist Criminology*. The Official Journal of the Division on Women and Crime. American Society of Criminology. Guest Editors Ruth Mann & Karen Joe Laidler. “All in the Family? The Gender Neutering of Domestic Violence.” August 31, 2007.
- 2007 Reviewer, *Canadian Online Journal of Queer Studies in Education*. Editor, Dr. Roy Gillis. phone: 416 923 6641x2493. (One article). “An Overview of Hate Crimes in the Queer Community and Issues in Non-Reporting.”
- 2006 Reviewer, *Higher Education Perspectives*. Ontario Institute for Studies in Education. The University of Toronto.
- 2005 Reviewer, *Canadian Online Journal of Queer Studies in Education* – Ontario Institute for Studies in Education of the University of Toronto: <http://jqstudies.oise.utoronto.ca/journal/> Editor, Dr. Roy Gillis, Email: [jqstudies@oise.utoronto.ca](mailto:jqstudies@oise.utoronto.ca), phone: 416 923 6641x2493. (Three articles)
- 2005 Reviewer, de Sitter Publications, 104 Consumer Drive, Whitby, Ontario. Canada. L1N 1C4. (One book manuscript, Summer 2005).
- 2005 Reviewer, *Higher Education Perspectives*. Ontario Institute for Studies in Education. The University of Toronto.
- 2004 Reviewer, ITP Nelson (Thomson Nelson). Reviewed 3<sup>rd</sup> edition of *Criminology In Canada* by Larry J. Siegel and Chris McCormick. Thomson Nelson. Edward Ikeda.
- 2004 Reviewer, Oxford University Press, *Crime and Criminology. An Introduction*. Third Edition by Rob White and Fiona Haines. Oxford University Press. Nick Durie.
- 2004 Editorial Board Member. *Canadian Online Journal of Queer Studies in Education*. Ontario Institute for Studies in Education of the University of Toronto.
- 2004 Reviewer, *Higher Education Perspectives* – <http://aries.oise.utoronto.ca/highered/> - Ontario Institute for Studies in Education of the University of Toronto. Email: [mquint@oise.utoronto.ca](mailto:mquint@oise.utoronto.ca) (One article).
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- 2004 Reviewer, *Canadian Online Journal of Queer Studies in Education* – Ontario Institute for Studies In Education of the University of Toronto: <http://jqstudies.oise.utoronto.ca/journal/> (One article).
- 2004 Reviewer, *Canadian Review of Sociology and Anthropology*, CRSA/RCSA Editorial Office, Sociology Editor, Marilyn Porter, Department of Sociology, Memorial University, St. John’s, Newfoundland. Email: [crsa@mun.ca](mailto:crsa@mun.ca) (One article). 2003 Reviewer, *Canadian Review of Sociology and Anthropology*, CRSA/RCSA Editorial Office, Sociology Editor, Marilyn Porter, Department of Sociology, Memorial University, St. John’s, Newfoundland. Email: [crsa@mun.ca](mailto:crsa@mun.ca) (One article).
- 2003 Reviewer, *Online Journal of Justice Studies*, Special Issue (Vol. 1, No. 4) devoted to the Analysis of Terrorism. Dr. Ron Hinch, Editor, *Online Journal of Justice Studies*:

- editor.ojjs@uoit.ca. University of Ontario Institute of Technology. Oshawa, Ontario.  
 1993 Reviewer, *Canadian Journal of Women and the Law/Revue Juridique La Femme Et Le Droit*, National Association for Women and the Law, Carleton University, Ottawa, Ontario.
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#### EXPERT WITNESS:

- 2009 Expert witness, Challenge for Cause in Jury Selection: Potential bias against sexual orientation. *R. v Pechaluk*. Toronto: Ontario. Acquitted June 2009.
- 1995 Expert witness for *M. v. H.* a ground breaking legal case involving a constitutional challenge to the Family Law Act (Ontario) which establishes that the definition of spouse in the Family Law Act should be changed to "two persons" instead of a man and a woman in Section 29. See, the Court of Appeal for Ontario Finlayson, Doherty, and Charron. JJA. August 6, 7, 8, 1996.

#### CITATIONS:

- 2009 Report: *Anti-Gay/Lesbian Violence in Toronto: The Impact on Individuals and Communities*, cited in, Ruth Cameron, *Pushed (Back) In the Closet: Research Findings on the Safety Needs of LGBTTIQ2S Women and Trans Communities*. METRAC Metropolitan Action Committee on Violence Against Women and Children. Toronto, Ontario, at page 6.
- 2005 Report: written for the 519 Church Street Community Center and the Department of Justice cited in Larry J. Siegel and Chris McCormick. 2006. (Third Edition). *Criminology in Canada: Theories, Patterns, and Typologies*. Toronto: Thomson/Nelson, pg.107.
- 2005 Hate crime report, doctoral thesis and article in *Critical Criminology* on anti-gay/lesbian violence cited in, Douglas Victor Janoff, *Pink Blood: Queer Bashing In Canada*. Toronto: University of Toronto Press (May 2005). Faulkner, Ellen, 5-6, 183, 186, 199, 203-5.
- 2004 Rigakos and Bonnycastle book chapter on Woman-to-Woman abuse cited in Marina Morrow, Olena Hankivsky, Colleen Varcoe, 2004. "Women and Violence: The Effects of Dismantling the Welfare State." *Critical Social Policy*. 24(3): at page 370.
- 2003 Hate propaganda report cited in 37<sup>th</sup> Parliament, 2<sup>nd</sup> Session. Standing Committee on Justice and Human Rights. Evidence. Tuesday May 6, 2003.
- 2003 *Justice for All: A Conference on Lesbian and Gay Legal Issues*. Workshop on Abuse in Lesbian Relationships. Co-facilitated by: Tamarak. Ellen Faulkner, Kathleen Lahey, Pamela D. Havery, Kingston, Ont., 1990, pp. 11-13. (Queen's University), referenced in Karol O'Brien and Louise Picard, "*Les lesbiennes aussi tombent dans les bleus*," GIVCL: Group d'intervention in violence conjugale chez les lesbiennes.
- 2003 Reports and thesis findings on anti-gay/lesbian violence cited in, *Egale Submissions to the House of Commons Standing Committee on Justice and Human Rights re: Bill C-250 Hate Propaganda*. Ottawa: Equality for Gays and Lesbians Everywhere (EGALE). At pages 8-9.
- 2003 Report on Anti-Gay/Lesbian Violence (1997) cited in Banks, Christopher. 2003. *The Cost of Homophobia: Literature Review on the Human Impact of Homophobia in Canada*. Saskatoon: Gay & Lesbian Health Services of Saskatoon, Page 2.
- 2002 1997 Department of Justice report on anti-gay/lesbian violence cited in, Gail Mason,

- (2002) "Disorder," *The Spectacle of Violence: Homophobia, Gender and Knowledge*. London and New York: Routledge, at page 39, footnote 6.
- 2002 "Woman-To-Woman Abuse: Analyzing Extant Accounts of Lesbian Battering," article from *Unsettling Truths* cited in, Janice L. Ristock. (2002) *No More Secrets: Bearing Witness to Violence in Lesbian Relationships*. New York; London: Routledge, at pages 3 and 19.
- 2001 *Queen's Law Journal* article on same-sex partner abuse cited in Poorman, P.B. (2001) "Forging links to address abuse in lesbian relationships." *Women and Therapy*. 23(3): 7-24.
- 2001 *Anti-Gay/Lesbian Violence In Toronto: The Impact on Individuals and Communities* (Department of Justice, 1997) cited in Howard-Hassman, R.E. (2001). "Gay rights and the right to family: Conflicts between liberal and illiberal belief systems." *Human Rights Quarterly*. 23(1):73-95.
- 2001 Lesbian abuse articles and conference papers cited in, Cindy Holmes. *The Politics of Naming the Violence: Examining Constructions of 'Lesbian Abuse' in Community-Based Educational Discourses*. A Thesis submitted in conformity with the requirements for the degree of Master of Arts, Department of Sociology and Equity Studies in Education, Ontario Institute for Studies in Education of the University of Toronto, at pgs. 16, 21, 22, 23, 26, 41, 44. (unpublished manuscript).
- 2001 *Researching Evidence of Hate Propaganda in Canada: A Conceptual Report*, referenced in, "Diversity and Justice," *Directory of Research 2001*. Research and Statistics Division, Department of Justice Canada, (2001) at page 15.
- 2000 *Queen's Law Journal* article on same-sex partner abuse cited in Jonathan Cohen. "More Censorship or Less Discrimination? Sexual Orientation Hate Propaganda in Multiple Perspectives.." *McGill Law Journal*. 46 (2000) 69-103, at p. 75.
- 2000 *Unsettling Truths* article on lesbian battering reviewed in, Marina Morrow. Autumn 2000. "Review Essay: Research and Activism on Violence Against Women: Academic Discourses for the New Millennium," *Critical Criminology: An International Journal*. 9(1/2):153-162., at pgs., 155-165.
- 2000 Department of Justice hate crime report on anti-gay/lesbian violence cited in, Viviane K. Namaste, *Invisible Lives: The Erasure of Transsexual and Transgendered People*. Chicago and London: The University of Chicago Press, at pg. 43.
- 2000 Hate crime report and doctoral thesis on anti-gay/lesbian violence cited in, Douglas Victor Janoff, *Pink Blood: Queer Bashing In Canada*. A Thesis submitted in partial fulfillment of the requirements for the degree of Master of Arts in the School of Criminology, Simon Fraser University.
- 2000 Lesbian battering article (Rigakos et. al.) cited in Jiwani, Yasmin. "Mapping Violence: A Work in Progress." Federal Action on Family Violence Prevention in British Columbia. A Presentation at the BC/Federal Family Violence Prevention Initiative Symposium Vancouver (December 2000).
- 2000 Lesbian battering research cited in Yasmin Jiwani, Ph.D., Federal Action on Family Violence Prevention in British Columbia, "Mapping Violence: A Work in Progress," A Presentation at the BC/Federal Family Violence Prevention Initiative Symposium Vancouver. (December 2000).
- 1999 Findings from 1997 Department of Justice report on Hate Crime referenced in Larry J. Siegel and Chris McCormick, (2003) *Criminology in Canada: Theories, Patterns, and*

- Typologies*. Toronto: ITP Nelson, at page 336, note 139.
- 1999 Findings from 1997 Department of Justice report, "Anti-Gay/Lesbian Violence in Toronto: The Impact on Individuals and Communities," cited in, Kathleen A. Lahey, *Are We 'Persons' Yet: Law and Sexuality In Canada*. Toronto: University of Toronto Press, 1999, at pg. 151, note 95.
- 1999 1997 Department of Justice report, "Anti-Gay/Lesbian Violence in Toronto: The Impact on Individuals and Communities," cited in, City of Toronto, Task Force on Community Safety, *A Community Safety Strategy for the City of Toronto* (February 1999). Toronto: City of Toronto, pg. 2, citation 44.
- 1999 1997 Department of Justice report, "Anti-Gay/Lesbian Violence in Toronto: The Impact on Individuals and Communities," cited in, City of Toronto, Task Force on Community Safety, *A Community Safety Strategy for the City of Toronto* (February 1999). Toronto: City of Toronto, pg. 2, citation 44.
- 1999 Citation Abstract, *UMI ProQuest Dissertations*, "A Case Study of the Institutional Response to Anti-Gay/Lesbian Violence in Toronto (Ontario)." University of Toronto (Canada). Publication Number: AAT NQ41150. ISBN: 0-612-41150-8.
- 1998 Queen's Law Journal article on Lesbian Battering cited in Bala, Nicholas et. al Faculty of Law, Queen's University. March 1998. *Spousal Violence in Custody and Access Disputes: Recommendations for Reform*. Ottawa: Status of Women Canada Policy Research Fund, footnote 26, page 10.
- 1998 Queen's Law Journal article on lesbian battering referenced in, Health Canada, *Abuse in Lesbian Relationships*. By Janice Ristock, Laurie Chesley and Donna MacAulay. (1998). National Clearinghouse on Family Violence Publication.
- 1998 Hate crime study for the Department of Justice cited in, Ken Dowler. *Intolerance, Ignorance and Insensitivity: An Examination of Anti-Gay Attitudes and Behaviours within a University Population*. A Thesis submitted to the Faculty of Graduate Studies and Research through the Department of Sociology in Partial Fulfillment of the Requirements for the Degree of Master of Arts at the University of Windsor, Windsor, Ontario at pgs 31-40. (unpublished manuscript).
- 1997 Research on anti-gay/lesbian violence conducted for the 519 Church St. Community Centre and the Department of Justice cited on the Media Awareness Network.
- 1997 Research on anti-gay/lesbian violence conducted for the 519 Church St. Community Centre and the Department of Justice cited on the Media Awareness Network site.
- 1997 Master's thesis research on same-sex partner abuse ("Lesbian Battering and Feminist Theory") cited in, Canadian Press, "Men aren't the only ones who abuse their girlfriends: Lesbians also victims of domestic violence." *Halifax Daily News*. (February 5, 1997): 24.
- 1997 Department of Justice report "Anti-Gay/Lesbian Violence in Toronto: The Impact on Individuals and Communities" (1997) cited in, Margaret Philp, "Report documents gay-bashing. Toronto homosexuals face alarming odds of physical, verbal abuse." *The Globe and Mail*. (June 25, 1997):A8.
- 1996 *M. v. H*. Between M, applicant (respondent in appeal), and H, respondent (appellant) [1996] O.J. No. 4419 Nos. C23867 and C25140 Ontario Court of Appeal Toronto, Ontario Finlayson, Doherty and Charron JJ.A. Heard: August 6-8, 1996. Judgment: December 18, 1996. (87 pp.) Counsel: Martha A. McCarthy for the respondent. Mary Eberts and Marg Manktelow for the appellant. Robert E. Charney and Peter Landmann for the Attorney General of Ontario. Douglas Elliott for the Foundation for Equal Families. Reasons for

- judgment were delivered by Finlayson J.A. Separate reasons were delivered by Charron J.A., concurred in by Doherty J.A.
- 1996 *Queen's Law Journal* article on same-sex partner abuse cited in, Professor N. Bala. "Spouse Abuse and Children of Divorce: A Differentiated Approach." *Canadian Journal of Family Law*. 13: 215-285.
- 1994 *Queen's Law Journal* article on same-sex partner abuse cited in Didi Herman, *Rights of Passage: Struggles for Lesbian and Gay Legal Equality*. Toronto, Buffalo, London: University of Toronto Press. Chapter 1, note 6, page 6.
- 1994 *Queen's Law Journal* article on same-sex partner abuse cited in Mary Eaton, "Abuse by any other Name: Feminism, Difference, and Intra-lesbian Violence," Martha Albertson Fineman and Roxanne Mykitiuk eds. *The Public Nature of Private Violence: The Discovery of Domestic Abuse*. New York, London: Routledge.
- 1992 Undergraduate thesis on lesbians in Women's Studies programmes cited in Carolyn Gammon, "Lesbian Studies Emerging in Canada," *Journal of Homosexuality*. 24:1-2, 137-160.
- 1992 Undergraduate thesis on lesbians in Women's Studies, Queen's University cited in Carolyn Gammon, "Lesbian and Gay Studies Emerging in Canada." In H.L. Minton (ed.), *Gay and Lesbian Studies*. New York: Haworth Press, 137-160.
- 1992 *Queen's Law Journal* article on same-sex partner abuse cited in Maxine Cupido, Patricia Frost, Elizabeth Hundevad, *Lesbian Abuse*. Independent Enquiry Project presented to the School of Social Work at Carleton University as partial fulfilment of the requirement for the degree of Master of Social Work. Research Advisor, Professor Cindy Player. Ottawa, Canada. (May). (unpublished manuscript).
- 1991 Abstract Citation, *UMI ProQuest Digital Dissertations*, "Lesbian Battering and Feminist Theory." (Master's Thesis). Queen's University at Kingston (Canada). ISBN: 0-315-70729-1.

## ADMINISTRATION, SUPERVISORY AND COMMITTEE WORK

- 2013 Member, Community Outreach & Recruitment Activities (CORA) Committee
- 2013 Member, Status of Women Committee, College of New Caledonia.
- 2012 Member, Education Planning Committee, Department of Interdisciplinary Studies, Okanagan College, Kelowna, B.C.
- 2012 Member, Women's Resource Centre Committee, Okanagan College, Kelowna, B.C.
- 2012 Member, Diversity Working Group, Okanagan College, Kelowna B.C.
- 2012 Professional Development. I attended the Instructional Development Workshop at The Centre for Academic Growth, Kwantlen University in May, 2012.
- 2012 Student essays from CRIM 1101 and CRIM 2214 were submitted for review to the *Undergraduate Interdisciplinary Student Conference*, Kwantlen Polytechnic University. (<http://kwantlen-unic.weebly.com/>)
- 2012 Course Revision. (Spring 2012). CRIM 3213 – Community Corrections, Department of Criminology, Kwantlen University, with Jane Miller-Ashton and Tom Allen.
- 2012 Course Revision (Spring 2012). CRIM 2249 – Youth Justice.
- 2012 Sub-Committee member. (Fall/Spring 2012). Sub-Committee to investigate the potential for a concentration in policing, with Greg Jenion and Mike Larsen, Department of Criminology, Kwantlen University.

- 2006 Supervised *Experience Works* undergraduate student Jessica Beaulieu for *Making Hate Crime: A Study of Police Work* project. Summer 2006.
- 2006 Library Committee member (with Dr. John Sorenson) Department of Sociology, Brock University.
- 2005 Sociology Representative, Master's and Doctoral SSHRC Internal Ranking, Graduate Studies, Brock University, December 14, 2005.
- 2005 *Student Awards Officer*, Department of Sociology, Brock University.
- 2005 *Dean's Appointed New Faculty Meet and Greet Committee*, Brock University. 2005-2006.
- 2006 Supervised 1 undergraduate student (Drew Moir) for SOCI3P33, Law and Social Regulation.
- 2006 Supervised 1 M.A. Graduate student Teaching assistant (Julie Gregory) for SOCI3V84, Victimology.
- 2005 Supervised 2 undergraduate and 1 graduate student Teaching Assistants for SOCI2P61, Introduction to Criminology, Brock University, St. Catharines, Ontario. Julie Gregory, Jennifer Servos, and Bianca Commazolo.
- 2005 Supervised 3<sup>rd</sup> year student Jennifer Servos, *Experience Works Programme*, Department of Sociology, Brock University. Jennifer Servos is presently completing a concentration in Criminology through the Department of Sociology. (Summer 2005).
- 2005 Supervised 2 undergraduate and 1 graduate student Teaching Assistants for SOCI2P61, *Introduction to Criminology*, Brock University, St. Catharines, Ontario. Julie Gregory, Joelle Kirkpatrick, and Elizavetta Kozlova were trained to facilitate 2 seminars each during the Fall term.
- 2005 *Student Awards Officer*, Department of Sociology, Brock University.
- 2004 *Dean's Appointed Criminology Committee*. Worked with other interested faculty to investigate the possibility of pursuing a B.A. in Criminology at Brock University.
- 2004 *Board Member*, St. Thomas University Representative, *Muriel McQueen Centre for Research on Violence Against Women and Children*, Fredericton, New Brunswick.
- 2003 *Honours Sub-Committee*, Department of Criminology & Criminal Justice, St. Thomas University, Fredericton, New Brunswick.
- 2004 *Collective Bargaining Back-Up Committee*, (FAUST) – Sexual Harassment, Faculty Association of the University of St. Thomas, St. Thomas University, Fredericton, New Brunswick.
- 2004 Guest Lecturer Committee. St. Thomas University, Fredericton, New Brunswick.
- 2004 *AIDS Committee*, St. Thomas University, Fredericton, New Brunswick.
- 2003 Supervised St. Thomas University student Stella Cooke under the J.O.B.S. programme at St. Thomas University, Fredericton, New Brunswick. (Fall/Winter 2002-2003). Assisted me with my hate Crime Research Project.
- 2003 *Library Allocation Committee* member, St. Thomas University, Fredericton, N.B.
- 2003 Awarded funding for a Student Research Assistant through the Career Development Programme, St. Thomas University, Fredericton, New Brunswick, Summer 2003.
- 2002 *Collective Bargaining Survey*, St. Thomas University, Fredericton, New Brunswick. I worked with the collective bargaining survey committee members to a) obtain preliminary feedback from faculty on pertinent issues and b) distribute a survey to obtain detailed information on faculty experience, c) write a report on the findings.
- 2002 *Library Representative*, Department of Criminology and Criminal Justice, St. Thomas

- University, Fredericton, New Brunswick. (Fall/Winter, 2002-2003).
- 2002 *Gender Studies committee member*, St. Thomas University, Fredericton, New Brunswick.
- 2002 Supervised St. Thomas University student Bryden Mombruquette under the J.O.B.S. programme at St. Thomas University, Fredericton, New Brunswick. (Fall/Winter 2002-2003). Technical assistance, Webpage design and application.
- 2002 Supervised Teaching Assistant, Stephanie Bruce, a graduate student in the Department of Sociology, University of New Brunswick, for CRIM-1006 - "Introduction to Criminology and Criminal Justice," at St. Thomas University. (Fall/Winter 2002-2003).
- 2002 Supervised third year Faculty of Law student Gemma Smyth, who was hired by the Department of Women's Studies at the University of Windsor as a Teaching Assistant for my "Women and the Law," course (52-360), Women's Studies, University of Windsor.
- 2002 Supervised four Teaching Assistants for two of my undergraduate courses at the University of Windsor; "Introduction to Criminology," (48-360) and "Canadian Social Problems" (48-260). University of Windsor Graduate Students: Malik Awoke, Heidi Baker, Ryan Cotter and Phyllis Kumi.
- 2001 Supervised Sociology Teaching Assistant Yolanda Lambe, for my second year "Law and Society" (48-261) class at the University of Windsor, Ontario (48-260), Department of Sociology & Anthropology, University of Windsor.
- 2001 Co-Coordinator of the *Department of Sociology and Anthropology Speaker Series*, University of Windsor. (2000-2001). Budget: \$1,500.00 (with Dr. Karen Richter, Department of Sociology & Anthropology).
- 2001 Supervised three Research Assistants who were hired to conduct research for my Department of Justice Contract on Hate Propaganda., *Researching Evidence of Hate Propaganda: A Conceptual Report*. (2001-2002). Research Assistants: Adam Vasey, Faculty of Law, University of Windsor, Megan Street and Jennifer Kilty, Department of Sociology & Anthropology, University of Windsor.
- 2000 Supervised two Teaching Assistants at the University of Calgary for two sections of "Introduction to Sociology,": Sociology Graduate Students, Alison Noiles and Sue Green, Department of Sociology, University of Calgary.
- 1999 Hiring Committee, *Education Commons*, Ontario Institute for Studies in Education, University of Toronto. Graduate Student Representative on the Education Commons Hiring Committee, OISE/UT. Tony Gallina, Avi Hyman, Carol Calder, Ellen Faulkner.
- 1999 Graduate Assistant Grievance Advisor, *CUPE Local 3907*, Ontario Institute for Studies in Education, The University of Toronto. Supervisors: Maureen Giuliani & Shirley Thompson.
- 98-99 Doctoral-List Manager, Ontario Institute for Studies in Education, the University of Toronto. I managed an online list for doctoral graduate students at the Ontario Institute for Studies in Education, University of Toronto, OISE/UT.

## PREVIOUS RESEARCH PROJECTS

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**Social Sciences and Humanities Research Council (Canada) (SSHRC) Standard Research Grant Awarded April 2006; *Making Hate Crime: A Study of Police Work*; Amount: \$47,498. File No.: 410-2006-1827. Council Identification Number: 67094.**

This research program advanced interdisciplinary work in hate crime research through an

examination of how victims experience and imagine hate crime documentary processes and identities. A focus on the lives of victims as they intersect with criminal justice systems informs theoretical debate regarding the impact and significance of documentary practices “in the field.” This project is located within the expanding interdisciplinary field of “hate crime studies” which moves beyond older paradigms of “ethnoviolence” and “inter-ethnic conflict.” The new social studies of hate crime emphasize both the social construction of victim populations as a historically and geographically specific category, and the ways in which specific victim groups actively engage with, rather than passively receive, oppressive situations in their social worlds. This literature has begun to grapple with the relationship between hate and larger political and economic processes such as nationalism and globalization. It has also begun to investigate the production of victim’s social identities and the ways in which these articulate with processes of class, gender, sexual orientation, ability, religion, ethnicity, and ‘race’. While hate crime data has recently been collected through the General Social Survey (GSS) there is no national data base which collects such statistics. Police forces use different definitions of hate crime and not all jurisdictions document hate crime incidents. While there have been attempts to estimate the amount of hate crime taking place in Canadian society there has been no research conducted on: (1) The impact of police hate crime initiatives on the social construction of hate crime; (2) The response by police to hate crime incidents or, (3) How police attitudes toward hate crime victims impact on the data collection process and overall criminal justice system response. Two major areas are explored in this research program. The first is how hate crime victims experience and perceive aspects of criminal justice system response (police, courts, lawyers, advocates) including the increased attempt to respond to and document hate crime statistics and the concomitant restructuring of spheres of state provision such as law, education, health, and social services. The elicitation of commentary from victims regarding such processes will permit illumination of ‘hate crime’ as a lived experience which is negotiated with criminal justice systems. The second focus of the study links these processes to the production of victim’s social identities by exploring police attitudes to collecting hate crime data. The first objective of this focus is to examine the factors that affect whether Canadian police agencies and police officers participate in hate crime data collection initiatives. The second aim is to obtain data in the field that will help researchers to better understand the ways in which police officers, detectives, hate crime unit personnel respond to and make decisions about ‘true’ hate crime incidents. This research program grows out of and contributes to an expanding methodological literature on qualitative hate research. Focus groups and interviews conducted in naturalistic rather than “experimental” settings will be used to illuminate the often marginalized perceptions and experiences of hate crime victims. The results of this research program will be disseminated through conference papers presented at scholarly conferences, articles in refereed journals and a book length monograph. The result will be of interest to other scholars as well as victim advocates, service workers (e.g. front line workers, teachers), police, lawyers, detectives, politicians and policy makers. The research makes an empirical, theoretical and methodological contribution to the literature on hate crime through its focus on lives of victims and criminal justice personnel whose work it is to respond to such incidents.

#### UNPUBLISHED MANUSCRIPT:

*Manuscript revisions, Living In the Shadows: Queer Bashing in Canada.*

**Internal Funding; Brock University Academic Fund, Special Seed grant for**



**the purpose of publishing a manuscript: \$1,000.00. Course release obtained from the St. Thomas University Senate Research Committee, 2003, Value: \$3,500.00.**

Based on a national study of anti-gay/lesbian violence, this comprehensive, accessible volume derives from a common theme expressed by subjects: the sense of being targets of homophobic harassment, intimidation, and actual violence, first by strangers and people they know in everyday situations, and subsequently by institutions which tend to deny the problem when victims seek help. I address several central issues: criminal and non-criminal actions experienced by sexual minorities and those who support them; the perpetrators and locations of anti-gay/lesbian violence; the experiences of victims when they report to authorities; effective models of community response, and what we can learn about anti-gay/lesbian violence in Canada in general by studying this previously unexplored form of hate crime. The research offers findings from a study conducted in a large Canadian urban centre and contrasts these findings with community-based studies conducted elsewhere in Canada. In its final form, it provides the first comprehensive Canadian study of anti-gay/lesbian violence. The research provides a fresh look at the effects of heterosexism and homophobia, with a particular feminist focus on the way in which previous North American research on anti-gay/lesbian violence has focused on gay men's experience of hate crime to the exclusion of an examination of gender, race, ethnicity, class and ability. The book critically examines the theories and research methods utilized to study and explain hate crime with a particular emphasis on how knowledge produced in this field impacts on social justice initiatives. Students and professionals in Criminology, Victimology, Law, Social Justice, Social Work, Sociology, Women's Studies, Nursing, Clinical Psychology, Counselling and Family Studies will benefit from this work.

**Book Manuscript – Published Spring 2009. Victim No More: Women's Resistance to Law, Culture and Power. Editors: Dr. Ellen Faulkner (Brock University) and Dr. Gayle MacDonald (St. Thomas University). Fernwood Press: Halifax, Nova Scotia.**

In this anthology, we explore ways in which women have worked in/outside of law and legal systems to effect change. The resistant work of women can be re-read as not only empowerment, but as a challenge to dominant discourse. Ways of knowing for women include methods of resistance more common to resistance movements than to academic feminisms. Women in this anthology give voice to their own experiences of resistance. In so doing, they share knowledge from their own particular standpoints. This knowledge is specific to the context in which each woman lives and works. In attempting to examine the *intersections* between and among women's diverse experiences of resistance we engage in a discussion about how women survive, move beyond abuse, to thrive and grow. There is also a practical component to this compilation. Talking about and sharing strategies of resistance may provide agency rather than passive acceptance, hope rather than resignation. In a world increasingly militaristic and imperialist, how does the prostitute resist arrest? What does the battered wife say to patriarchal law? How does the lesbian claim her maternal status over a child when the partnership breaks down? How does the veiled Muslim woman stay true to herself? All actions that are often couched as victimizing can be re-read as resistance, if one pays attention to the structures of power that "need" victimization to self-legitimate. Finally, the papers raise questions about the utility of law and the power of women from a wide range of diverse backgrounds, to challenge and resist dominant discursive structures.

## RESEARCH DEVELOPMENT INITIATIVE GRANT

**2011. Department of Justice, Canada. Anti-Violence Project, Egale Canada (Equality for Gays and Lesbians Everywhere). (Collaborator). Funding: \$50,000.00.**

**RDI – Research Development Initiative Grant Application - Social Sciences and Humanities Research Council.** Grounding for this project began with community-based grassroots organizations and academics whose research interests are in the area of hate crime experienced by Canadian gay, lesbian, bisexual, transgender and queer persons. In 2005 Seed funding was provided to develop a national resource on the web for victims of homophobic and transphobic hate crimes including information on prevalence and impact; A weekend-long hate crime forum was organized in Toronto in the Spring of 2005, out of which the *Canadian Anti-Violence Project* was formed. I have worked with Egale Canada and the Canadian AntiViolence Project members to write grant applications to raise funding to support educational initiatives such as: 1) create a plain-language information resource on the web for victims of homophobic and transphobic hate crimes including information on prevalence and impact, and bringing home the message that hate crimes are in fact crimes, that they are not alone in having experienced them, and that support is available to them; 2) develop and expand a resource list for Ontario communities, with a specific focus on LGBTQ and LGBTQ- friendly resources in smaller Ontario communities and rural areas; and, 3) launch a media campaign to sensitize the LGBT Communities to the prevalence of homophobic and transphobic hate crimes and to let victims know of sources of support. This will include print media advertisements in community newspapers in as many communities as we can reach, and three one-day community events in Ottawa, Toronto and Thunder Bay at which guest speakers and service providers will highlight the problem and make people aware of sources of support.

**2003** SSHRC Standard Research Grant Application submitted October 15, 2003: Improving the Quality and Accuracy of Hate Crime Statistics Nationally: An Analysis of Canada's First Ten Years of Hate Crime Data Collection. .

**2003** *Application submitted to the New Brunswick Innovation Fund, May 2003. Working Title of Current Project: Improving the Quality and Accuracy of Hate Crime Statistics Nationally: An Assessment of Canada's First Ten Years of Hate Crime Data Collection.*

**2002** *Application for General Research Grant submitted to the Senate Research Committee, St. Thomas University, Fredericton, New Brunswick. Working Title of Current Project: Improving the Quality and Accuracy of Hate Crime Statistics Nationally: An Assessment of Canada's First Ten Years of Hate Crime Data Collection.*

**2002** **Canadian Initiative on Social Statistics (CISS) Research Data Centres, RDC Application. Project title: Hate Crime in Canada: A Comparative Analysis of Anti-Gay/Lesbian Victimization Data.** Analysed data obtained from Statistics Canada's 1999 General Social Survey – Victimization Cycle 13 – Hate Crime (Social Science and Humanities Data Liberation Project). The targeted research is on the pressing social issue of hate crime data collection and analysis with a focus on gender and sexual orientation hate crime. Using this first Canadian attempt to obtain a national estimate on hate crime I compare the research methods used and the responses obtained through the GSS with my own research findings on anti-gay/lesbian victimization obtained from communities across Canada.

- 2001 Principle Investigator. Research and Statistics Division. Justice Canada. *Researching Evidence of Hate Propaganda: A Conceptual Report*. (November 2000 - March 2001).** In 2001 I completed a research contract with the Department of Justice on hate propaganda which resulted in a report titled *Researching Hate Propaganda: A Conceptual Report*. The purpose of the research conducted for this report is to provide a conceptual "think piece" that explains evidence of materials that would constitute hate propaganda under sections 318 and 319 of the Criminal Code, against groups not presently covered by the definition of identifiable group. In particular, evidence of hate propaganda targeting individuals on the basis of colour, race, national or ethnic or national origin, religion, sex, age, mental or physical disability, or sexual orientation (referred to as the expanded groups). The goals of the research were twofold: (a) Explore the conceptual and methodological grounds for conducting research of materials would constitute hate propaganda against the aforementioned expanded groups. (b) Determine if there is reasonable prima facie evidence of hate propaganda against the aforementioned expanded groups. Funding from the Department of Justice: \$13,000.00
- 2001 Co-Investigator. Survey of Anti-Gay/Lesbian Violence.** I worked with the Calgary Police Services/Lesbian and Gay Police Liaison Committee to develop a survey of anti-gay/lesbian violence for distribution during Lesbian and Gay Pride Week in Calgary during the summer of 2000. **Final Report: *Anti-Gay/Lesbian Violence in Calgary, Alberta: The Impact on Individuals and Communities*. (2001). Calgary: Calgary Police Services.**
- 2000 Co- Investigator. Evaluation of Women-Hurting-Women Subcommittee Professional Training with respect to Same-Sex Violence.** Resolve Alberta, c/o Department of Anthropology, SS854, University of Calgary. 2500 University Drive NW, Calgary, Alberta. T2N 1N4. Phone: (403) 220-8634. Fax: (403) 210-8117. Dr. Leslie Tutty, Academic Research Coordinator and Kendra Nixon, Community Research Development Coordinator. Department of Justice Funding: \$10,000.00.
- 2000 Research and Data Collection Workgroup Leader.** Hate Bias Activity Roundtable. The Honourable Dr. Hedy Fry, Minister of Multiculturalism and Status of Women, Ottawa, Ontario. This is an ongoing project which began in February, 2000 and ended in 2001.
- 1999 Co-Investigator: Lesbians Working to End Violence In Lesbian Relationships. (LWEVLR).** I worked with a grassroots community group to produce a training resource manual and to give workshops on same-sex partner abuse to the social service community in Toronto. Funding was obtained from the Ontario Women's Directorate: \$10,000.00. Collaborators: Deb Parent, Lorraine Woodhouse, Karen Baldwin, Tiporah Russell, Ellen Faulkner, et al.
- 1997 Co-Investigator/Researcher.** Department of Justice contract to research and prepare a report on Anti-Gay/Lesbian Violence in Toronto, entitled: *Anti-Gay/Lesbian Violence in Toronto: The Impact on Individuals and Communities*. Department of Justice Canada: Research and Statistics Division/Policy Sector. TR1997-3e. Funding: \$5,000.00.
- 96-97 Research Assistant. Un profil démographique des écoles de langue française de Toronto.** Chercheure principale : Dr. Monica Heller, Centre de recherches en éducation franco\_ontarienne. Ontario Institute for Studies in Education of the University of Toronto. Assistantes de recherche: Ellen Faulkner Selina Mushi. Subventionné par le Conseil de recherches en sciences humaines (subventions à petite échelle). L'objectif de ce projet a été de compléter l'analyse des questionnaires démographiques envoyés dans les écoles de



- 1999 Member of the Calgary Gay and Lesbian Communities/Police Liaison Committee. Hate/Bias Crime Cultural Resources Unit, City of Calgary Police Services. Constable Doug Jones, Hate/Bias Crime Coordinator, Cultural Resources Unit, Calgary Police Service, 133-6th Avenue, SE, Calgary, AB. T2G 4Z1. (403) 266-1234.
- 1999 Advisory Committee Member with the Violence Information and Education Centre (VIEC) Calgary, Alberta. Barbara MacDonald, Co-Ordinator, 302, 501-18th Avenue S.W. Calgary, Alberta. T2S 0C7. (403) 209-3129.
- 1999 "Women Hurting Women," (WHW) Adhoc Committee of the Working Group "Entry Points" which is part of the Calgary Domestic Violence Committee. Peer Support Services, 301-501 18<sup>th</sup> Avenue S.W. Calgary, Alberta. T2S 0C7.
- 93-97 Community Response to Bashing Committee, The 519 Church Street Community Centre Victim Assistance Programme, 519 Church Street, Toronto, Ontario. M4Y 2C9. (416) 392-6878, ext. 117.

## **WORK-RELATED EXPERIENCE**

**2009-2011 COURT CLERK AND REGISTRAR** – Ministry of the Attorney General, Court Support Services, 1000 Finch Avenue West, Toronto, Ontario.

**1994-99. Front-Line Counsellor. North York Women's Shelter, North York, Ontario. Phone: (416) 635-9630. (Community and Social Services (COMSOC) & UnitedWay). 1994-1999.**

As a counsellor my duties included working with women in a feminist collective to provide crisis line counselling, intake interviews, advocacy and support, one-to-one counselling, problem solving, transitional plans, safety plans, and educational workshops to women and children. "The North York Women Shelter is an emergency shelter for abused women and children. North York Women's Shelter also provides women and their children with the support and sources they need to get their lives back on track after leaving an abusive relationship. North York Women's Shelter provides a safe refuge for abused women and their children." The shelter provides one-on-one counselling, support, and advocacy to provide protection to abused women and children in the shelter and the community. Outreach and legal advocacy are also provided, including a 24-hour, 7-days per week crisis phone line providing counselling. Help in making the transition to a violence free life including help with housing, counselling, parenting support, educational upgrading, job training, income support, and health and wellness services. Family court legal advice and advocacy with the criminal justice system is also provided.

**1986-92 Front-Line Counsellor. Kingston Interval House, Kingston, Ontario. Phone: (613) 546-1777. (Community and Social Services (COMSOC) & United Way).**

As a counsellor my responsibilities included working in a feminist collective to provide crisis line counselling, intake interviews, advocacy and support, one-to-one counselling, problem solving, transitional plans, safety plans, and educational workshops. "Kingston Interval House offers a safe shelter for abused women and their children. Trained and committed staff members offer supportive counselling for women and for children. Length of stay is up to 2 months. Community outreach services are available. Priority is given to those who have been physically, emotionally or

sexually abused or who fear they will be assaulted. If there is space and no other alternatives, women and their children in a housing crisis may be accommodated. Basic needs are supplied and all services are free and confidential. Counsellors work to help women identify the community supports they need and to connect them with these supports. The following outreach services are provided to women in the community who wish to establish violence free lives: One to one counselling for women planning to leave or who have left an abusive situation; Transitional Plans that may include: priority issues, hopes and dreams, identified goals, and how to achieve those goals; Safety Plans for both the woman and her children for the community, at home, at work, or at school. Safety plans may include cell phones for former residents of the shelter and house alarms; Court Support: this includes both family and criminal court; Advocacy with other community agencies; Mom's Groups: The Women's Community Counsellor along with the Child and Youth Community Counsellor facilitate a Mom's Group for children who have witnessed woman abuse."

**1985-86 Counsellor, Alternatives for Men Kingston Inc. (COMSOC and Corrections Canada), Kingston, Ontario. Mr. Chris Miner and Mr. Chris Whynot. 86 Princess Street, Suite 201. Kingston, Ontario. K7L 1A5. Phone: (613) 548-7499.**

My counselling work with voluntary and court-mandated men involved: 1) Intake interview and assessment of program needs; 2) Co-facilitation of a 12 week group counselling program; 3) program development and evaluation; 4) Curriculum development on the issue of physical abuse, sexual abuse, intimidation, coercion and threats, using children and others, economic abuse, emotional abuse, isolation, male privilege, minimization, denial and blame. The aim is for men to develop tools for accountability, responsibility, and safety. Alternatives for Abusive Men Kingston Inc. helps men to eliminate their abusive and violent behaviour in their primary and intimate relationships by providing alternatives to men who want to engage in stopping further abuses to their families. By providing alternatives to men the Kingston community is taking an active stand against women abuse and all of the attendant social repercussions. In the group counselling men learn: To understand why abuse occurs in relationships and the Power and Control's underpinning the abuse; To identify behaviours that are abusive and controlling; To understand what attitudes, feelings and intentions, underlie abusive and controlling behaviours; The effect of violence and abuse on their partners and children; The effect of abuse on men and on their relationships; Alternate ways to deal with problems in their relationships.

1983 - Clerk. Energy Mines and Resources Canada. Public Service of Canada. Ottawa, Ontario.

1979-80 - Clerk. Human Resources Department. Carleton University. Ottawa, Ontario.

## **CERTIFICATE**

Human Resources Management. 1984. St. Lawrence College. Kingston, Ontario.

### **Courses taught for which I have borne full academic responsibility:**

WMST 204 – Women, Crime and Justice – Okanagan College (Fall 2012)  
WMST 100- Introduction to Women's Studies – Okanagan College (Fall 2012)  
CRIM 111 – Introduction to Criminology – Okanagan College (Fall 2012)

CRIM 260 – Introduction to Research Methods – Okanagan College (Fall 2012)  
 CRIM 3213 – Community Corrections – Kwantlen Polytechnic University (Winter 2012)  
 CRIM 2249 – Youth Justice (Winter 2012)  
 CRIM 2330 – Psychological Explanations of Criminal Behaviour (Winter 2012)  
 CRIM 1101 – Introduction to Criminal Justice in Canada, (three sections Fall 2011) Kwantlen University  
 CRIM 2214 – Corrections: Theory and Practice (Fall 2011), Kwantlen University  
 CCRM 300 - Policing in Canada (Fall/Winter 2010) Ryerson University.  
 CCRM 600 - Violence in Society (Summer 2010) Ryerson University.  
 CCRM – 600 Violence in Society (Spring 2010) Ryerson University.  
 SOCI3P83 -Deviance and Social Control - (2004 - 2006) - Brock University.  
 SOCI3P33 - Victimology (2004 - 2006) - Brock University  
 SOCI2P61 - Introduction to Criminology SOCI2P61 - (2004 & 2005) - Brock University  
 SOCI4P33 - Advanced Issues in Law and Society - (2004 & 2005) - Brock University  
 CRIM4303 - Special Topics: Hate Crime (Intersession 2003 & Fall 2003) – St. Thomas University.  
 CRIM1006C1 - Introduction to Criminology & Criminal Justice: (Fall-Winter, 2003-2004).  
 CRIM1006D1 - Introduction to Criminology & Criminal Justice: (Fall-Winter, 2003-2004)  
 CRIM4303 - Special Topics: Hate Crime (Intersession – 2003) – St. Thomas University, Fredericton, N.B.  
 CRIM1006C1 & D1 - Introduction to Criminology and Criminal Justice (Fall/Winter 2002-2003).  
 CRIM-2943 - Victimology (Fall 2002) - St. Thomas University  
 CRIM2943) - Victimology (Intersession 2003) St. Thomas University  
 CRIM-2243 - Corrections (Winter 2003) - St. Thomas University  
 SOCI 48-207 - Canadian Social Problems (2002) - University of Windsor  
 SOCI 48-260 - Introduction to Criminology (2002) - University of Windsor  
 SOCI 48-360 - Sociology of Women (2002) - University of Windsor  
 SOCI 53-210 - Women and the Law (2001) - University of Windsor, Department of Women's Studies  
 SOCI 48-310 - Introductory Qualitative Research Methods (2001) - University of Windsor  
 SOCI 48-368 - Introduction to Policing (2001) - University of Windsor  
 SOCI 48-261 - Law and Society (2000 & 2001) - University of Windsor  
 SOCI 48-363 - Penology (2000) - University of Windsor  
 SOCI 48-362 - Victimology (2000 & 2001) - University of Windsor  
 Sociology of Youth Crime (2000) - University of Calgary  
 Introduction to Sociology (2000) (two sections) - University of Calgary  
 Introduction to Deviance and Social Control (1999) - University of Calgary  
 Intermediate Qualitative Research Methods (1999) - University of Calgary  
 Sociology of Law and Law Enforcement (1999) - University of Toronto at Scarborough

## REFERENCES:

Dr. Linda Coates  
 College Professor, Department of Psychology  
 Okanagan College  
 Kelowna, British Columbia

Contact: [lcoates@okanagan.bc.ca](mailto:lcoates@okanagan.bc.ca)  
 Phone: 250-492-4305, ext. 3238

Dr. Wade Diesman, B.A. (Alta.), M.A.S. (Dal.), Ph.D. (Car.)  
 Chair, Department of Criminology  
 Kwantlen University  
 Surrey, British Columbia  
 Email: [Wade.Deisman@kwantlen.ca](mailto:Wade.Deisman@kwantlen.ca)  
 Phone: 604-599-3429  
 604-599-2666  
 604-599-3356

Dr. Ann Duffy, Ph.D. (McMaster)  
 Professor and Associate Chair, Department of Sociology  
 Brock University  
 500 Glenridge Avenue  
 St. Catharines, Ontario  
 Home Phone: 905-892-3564  
 Work Phone: 905-688-5550 x3455 or x3517  
 Fax: 905-688-8337  
 Email: [aduffy@brocku.ca](mailto:aduffy@brocku.ca)

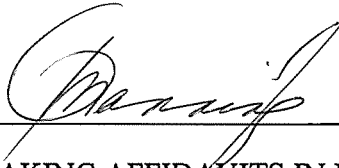
Dr. Helen Lenskyj, Ph.D. (Toronto)  
 Professor (as of January 1, 2008, Professor Emerita)  
 Department of Sociology & Equity Studies In Education  
 Ontario Institute for Studies in Education of the University of Toronto  
 252 Bloor Street West Toronto, Ontario  
 Phone: 416. 978.0447  
 Fax: 416.926.4751  
 Email: [hlenskyj@oise.utoronto.ca](mailto:hlenskyj@oise.utoronto.ca)

Professor Kathleen Lahey, B.A. (Illinois), J.D. (DePaul), LL.M (York)  
 Professor, Faculty of Law  
 Queen's University  
 Kingston, Ontario  
 Phone: 613-533-2220 Ext. 74277  
 Fax: 613-533-6509  
 Email: [kal2@post.queensu.ca](mailto:kal2@post.queensu.ca)

Professor Paul Olson, M.A. (Princeton)  
 Associate Professor, Department of Sociology & Equity Studies in Education  
 Ontario Institute for Studies in Education of the University of Toronto  
 252 Bloor Street West Toronto, Ontario  
 Voicemail: 416.978.0604  
 Fax: 416.926.4751  
 Email: [polson@oise.utoronto.ca](mailto:polson@oise.utoronto.ca)



THIS IS EXHIBIT "B" REFERRED TO IN THE  
AFFIDAVIT OF ELLEN FAULKNER  
SWORN BEFORE ME AT PRINCE GEORGE  
THIS 9th DAY OF APRIL, 2014

A handwritten signature in cursive script, appearing to read "D. Smith", is written over a horizontal line.

A COMMISSIONER FOR TAKING AFFIDAVITS IN BRITISH COLUMBIA

## TRINITY WESTERN UNIVERSITY Community Covenant Agreement

### Our Pledge to One Another

Trinity Western University (TWU) is a Christian university of the liberal arts, sciences and professional studies with a vision for developing people of high competence and exemplary character who distinguish themselves as leaders in the marketplaces of life.

#### *1. The TWU Community Covenant*

The University's mission, core values, curriculum and community life are formed by a firm commitment to the person and work of Jesus Christ as declared in the Bible. This identity and allegiance shapes an educational community in which members pursue truth and excellence with grace and diligence, treat people and ideas with charity and respect, think critically and constructively about complex issues, and willingly respond to the world's most profound needs and greatest opportunities.

The University is an interrelated academic community rooted in the evangelical Protestant tradition; it is made up of Christian administrators, faculty and staff who, along with students choosing to study at TWU, covenant together to form a community that strives to live according to biblical precepts, believing that this will optimize the University's capacity to fulfil its mission and achieve its aspirations.

The community covenant is a solemn pledge in which members place themselves under obligations on the part of the institution to its members, the members to the institution, and the members to one another. In making this pledge, members enter into a contractual agreement and a relational bond. By doing so, members accept reciprocal benefits and mutual responsibilities, and strive to achieve respectful and purposeful unity that aims for the advancement of all, recognizing the diversity of viewpoints, life journeys, stages of maturity, and roles within the TWU community. It is vital that each person who accepts the invitation to become a member of the TWU community carefully considers and sincerely embraces this community covenant.

#### *2. Christian Community*

The University's acceptance of the Bible as the divinely inspired, authoritative guide for personal and community life<sup>1</sup> is foundational to its affirmation that people flourish and most fully reach their potential when they delight in seeking God's purposes, and when they renounce and resist the things that stand in the way of those purposes being fulfilled.<sup>2</sup> This ongoing God-enabled pursuit of a holy life is an inner transformation that actualizes a life of purpose and eternal significance.<sup>3</sup> Such a distinctly Christian way of living finds its fullest expression in Christian love, which was exemplified fully by Jesus

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The Biblical passages cited in this document serve as points of reference for discussion or reflection on particular topics. TWU recognizes the necessity of giving careful consideration to the complexities involved in interpreting and applying biblical passages to contemporary issues and situations

<sup>1</sup> Deuteronomy 6:4-9; Psalm 19:7-11, 2 Timothy 3:16

<sup>2</sup> Matthew 6:31-33; Romans 8:1-17, 12:1-2, 13:11-14, 16:19; Jude 20-23, 1 Peter 2:11; 2 Corinthians 7:1.

<sup>3</sup> 2 Peter 1:3-8, 1 Peter 2:9-12; Matthew 5:16, Luke 1:74-75, Romans 6:11-14, 22-23; 1 Thessalonians 3:12-13, 4:3, 5:23-24; Galatians 5:22; Ephesians 4:22-24, 5:8

Christ, and is characterized by humility, self-sacrifice, mercy and justice, and mutual submission for the good of others.<sup>4</sup>

This biblical foundation inspires TWU to be a distinctly Christian university in which members and others observe and experience truth, compassion, reconciliation, and hope.<sup>5</sup> TWU envisions itself to be a community where members demonstrate concern for the well-being of others, where rigorous intellectual learning occurs in the context of whole person development, where members give priority to spiritual formation, and where service-oriented citizenship is modeled.

### *3. Community Life at TWU*

The TWU community covenant involves a commitment on the part of all members to embody attitudes and to practise actions identified in the Bible as virtues, and to avoid those portrayed as destructive. Members of the TWU community, therefore, commit themselves to:

- cultivate Christian virtues, such as love, joy, peace, patience, kindness, goodness, faithfulness, gentleness, self-control, compassion, humility, forgiveness, peacemaking, mercy and justice<sup>6</sup>
- live exemplary lives characterized by honesty, civility, truthfulness, generosity and integrity<sup>7</sup>
- communicate in ways that build others up, according to their needs, for the benefit of all<sup>8</sup>
- treat all persons with respect and dignity, and uphold their God-given worth from conception to death<sup>9</sup>
- be responsible citizens both locally and globally who respect authorities, submit to the laws of this country, and contribute to the welfare of creation and society<sup>10</sup>
- observe modesty, purity and appropriate intimacy in all relationships, reserve sexual expressions of intimacy for marriage, and within marriage take every reasonable step to resolve conflict and avoid divorce<sup>11</sup>
- exercise careful judgment in all lifestyle choices, and take responsibility for personal choices and their impact on others<sup>12</sup>
- encourage and support other members of the community in their pursuit of these values and ideals, while extending forgiveness, accountability, restoration, and healing to one another.<sup>13</sup>

In keeping with biblical and TWU ideals, community members voluntarily abstain from the following actions:

<sup>4</sup> Matthew 22:37-40; 1 Peter 5:5; Romans 13:8-10; 1 John 4:7-10; Philippians 2:1-5; 1 Corinthians 12:31b-13:8a; Romans 12:1-3, 9-10; John 15:12-13, 17; 1 John 3:10-11, 14-16; Ephesians 5:1-2, 21

<sup>5</sup> From TWU's "Envision the Century" Strategic Directions Document, p 5 ("Ends")

<sup>6</sup> Galatians 5:22-24; Colossians 3:12-17; Isaiah 58:6-8; Micah 6:8

<sup>7</sup> Proverbs 12:19; Colossians 3:9; Ephesians 4:25; Leviticus 19:11; Exodus 20:16; Matthew 5:33-37

<sup>8</sup> Ephesians 4:29; Proverbs 25:11; 1 Thessalonians 5:11

<sup>9</sup> Genesis 1:27-28; Psalm 139:13-16; Matthew 19:14; Proverbs 23:22

<sup>10</sup> Romans 13:1-7; 1 Peter 2:13-17; Genesis 1:28; Psalm 8:5-8; 2 Thessalonians 3:6-9

<sup>11</sup> Genesis 2:24; Exodus 20:14, 17; 1 Corinthians 7:2-5; Hebrews 13:4; Proverbs 5:15-19; Matthew 19:4-6; Malachi 2:16; Matthew 5:32

<sup>12</sup> Proverbs 4:20-27; Romans 14:13, 19; 1 Corinthians 8:9, 12-13, 10:23-24; Ephesians 5:15-16

<sup>13</sup> James 5:16; Jude 20-23; Romans 12:14-21; 1 Corinthians 13:5; Colossians 3:13

- communication that is destructive to TWU community life and inter-personal relationships, including gossip, slander, vulgar/obscene language, and prejudice<sup>14</sup>
- harassment or any form of verbal or physical intimidation, including hazing
- lying, cheating, or other forms of dishonesty including plagiarism
- stealing, misusing or destroying property belonging to others<sup>15</sup>
- sexual intimacy that violates the sacredness of marriage between a man and a woman<sup>16</sup>
- the use of materials that are degrading, dehumanizing, exploitive, hateful, or gratuitously violent, including, but not limited to pornography
- drunkenness, under-age consumption of alcohol, the use or possession of illegal drugs, and the misuse or abuse of substances including prescribed drugs
- the use or possession of alcohol on campus, or at any TWU sponsored event, and the use of tobacco on campus or at any TWU sponsored event.

#### ***4. Areas for Careful Discernment and Sensitivity***

A heightened level of discernment and sensitivity is appropriate within a Christian educational community such as TWU. In order to foster the kind of campus atmosphere most conducive to university ends, this covenant both identifies particular Christian standards and recognizes degrees of latitude for individual freedom. True freedom is not the freedom to do as one pleases, but rather empowerment to do what is best.<sup>17</sup> TWU rejects legalisms that mistakenly identify certain cultural practices as biblical imperatives, or that emphasize outward conduct as the measure of genuine Christian maturity apart from inward thoughts and motivations. In all respects, the TWU community expects its members to exercise wise decision-making according to biblical principles, carefully accounting for each individual's capabilities, vulnerabilities, and values, and considering the consequences of those choices to health and character, social relationships, and God's purposes in the world.

TWU is committed to assisting members who desire to face difficulties or overcome the consequences of poor personal choices by providing reasonable care, resources, and environments for safe and meaningful dialogue. TWU reserves the right to question, challenge or discipline any member in response to actions that impact personal or social welfare.

#### **Wise and Sustainable Self-Care**

The University is committed to promoting and supporting habits of healthy self-care in all its members, recognizing that each individual's actions can have a cumulative impact on the entire community. TWU encourages its members to pursue and promote: sustainable patterns of sleep, eating, exercise, and preventative health; as well as sustainable rhythms of solitude and community, personal spiritual disciplines, chapel and local church participation,<sup>18</sup> work, study and recreation, service and rest.

<sup>14</sup> Colossians 3:8; Ephesians 4:31

<sup>15</sup> Exodus 20:15; Ephesians 4:28

<sup>16</sup> Romans 1:26-27; Proverbs 6:23-35

<sup>17</sup> Galatians 5:1, 13; Romans 8:1-4; 1 Peter 2:16

<sup>18</sup> Ephesians 5:19-20; Colossians 3:15-16; Hebrews 10:25

### Healthy Sexuality

People face significant challenges in practicing biblical sexual health within a highly sexualized culture. A biblical view of sexuality holds that a person's decisions regarding his or her body are physically, spiritually and emotionally inseparable. Such decisions affect a person's ability to live out God's intention for wholeness in relationship to God, to one's (future) spouse, to others in the community, and to oneself.<sup>19</sup> Further, according to the Bible, sexual intimacy is reserved for marriage between one man and one woman, and within that marriage bond it is God's intention that it be enjoyed as a means for marital intimacy and procreation.<sup>20</sup> Honouring and upholding these principles, members of the TWU community strive for purity of thought and relationship,<sup>21</sup> respectful modesty,<sup>22</sup> personal responsibility for actions taken, and avoidance of contexts where temptation to compromise would be particularly strong.<sup>23</sup>

### Drugs, Alcohol and Tobacco

The use of illegal drugs is by definition illicit. The abuse of legal drugs has been shown to be physically and socially destructive, especially in its potential for forming life-destroying addictions. For these reasons, TWU members voluntarily abstain from the use of illegal drugs and the abuse of legal drugs at all times.

The decision whether or not to consume alcohol or use tobacco is more complex. The Bible allows for the enjoyment of alcohol in moderation,<sup>24</sup> but it also strongly warns against drunkenness and addiction, which overpowers wise and reasonable behaviour and hinders personal development.<sup>25</sup> The Bible commends leaders who abstained from, or were not addicted to, alcohol.<sup>26</sup> Alcohol abuse has many long-lasting negative physical, social and academic consequences. The Bible has no direct instructions regarding the use of tobacco, though many biblical principles regarding stewardship of the body offer guidance. Tobacco is clearly hazardous to the health of both users and bystanders. Many people avoid alcohol and/or tobacco as a matter of conscience, personal health, or in response to an addiction. With these concerns in mind, TWU members will exercise careful discretion, sensitivity to others' conscience/principles, moderation, compassion, and mutual responsibility. In addition, TWU strongly discourages participation in events where the primary purpose is the excessive consumption of alcohol.

### Entertainment

When considering the myriad of entertainment options available, including print media, television, film, music, video games, the internet, theatre, concerts, social dancing, clubs, sports, recreation, and gambling, TWU expects its members to make personal choices according to biblical priorities, and with careful consideration for the immediate and long-term impact on one's own well-being, the well-being of others, and the well-being

<sup>19</sup> 1 Corinthians 6:18-19.

<sup>20</sup> Genesis 2:24; Exodus 20:14,17; 1 Corinthians 7:2-5; Hebrews 13:4; Proverbs 5:15-19; Matthew 19:4-6.

<sup>21</sup> Matthew 5:27-28; 1 Timothy 5:1-2; 1 Thessalonians 4:3-8; Job 31:1-4; Psalm 101:2-3.

<sup>22</sup> 1 Peter 3:3-4; 1 Timothy 2:9-10.

<sup>23</sup> 1 Corinthians 6:18; 10:13; 2 Timothy 2:22; James 4:7.

<sup>24</sup> Deuteronomy 7:13, 11:14; Psalm 104:15; Proverbs 3:10; Isaiah 25:6; John 2:7-11; 1 Timothy 5:23.

<sup>25</sup> Genesis 9:20-21; Proverbs 20:1; 31:4; Isaiah 5:11; Habakkuk 2:4-5; Ephesians 5:18.

<sup>26</sup> Daniel 1:8, 10:3; Luke 1:15; 1 Timothy 3:3,8; Titus 2:3.

of the University. Entertainment choices should be guided by the pursuit of activities that are edifying, beneficial and constructive, and by a preference for those things that are “true, noble, right, pure, lovely, admirable, excellent, and praiseworthy,”<sup>27</sup> recognizing that truth and beauty appear in many differing forms, may be disguised, and may be seen in different ways by different people.

### ***5. Commitment and Accountability***

This covenant applies to all members of the TWU community, that is, administrators, faculty and staff employed by TWU and its affiliates, and students enrolled at TWU or any affiliate program. Unless specifically stated otherwise, expectations of this covenant apply to both on and off TWU’s campus and extension sites. Sincerely embracing every part of this covenant is a requirement for employment. Employees who sign this covenant also commit themselves to abide by TWU Employment Policies. TWU welcomes all students who qualify for admission, recognizing that not all affirm the theological views that are vital to the University’s Christian identity. Students sign this covenant with the commitment to abide by the expectations contained within the *Community Covenant*, and by campus policies published in the Academic Calendar and Student Handbook.

Ensuring that the integrity of the TWU community is upheld may at times involve taking steps to hold one another accountable to the mutual commitments outlined in this covenant. As a covenant community, all members share this responsibility. The University also provides formal accountability procedures to address actions by community members that represent a disregard for this covenant. These procedures and processes are outlined in TWU’s Student Handbook and Employment Policies and will be enacted by designated representatives of the University as deemed necessary.

### **By my agreement below I affirm that:**

I have accepted the invitation to be a member of the TWU community with all the mutual benefits and responsibilities that are involved;

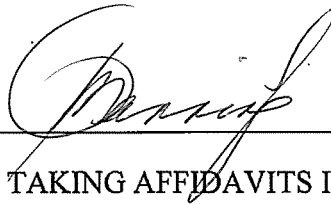
I understand that by becoming a member of the TWU community I have also become an ambassador of this community and the ideals it represents;

I have carefully read and considered TWU’s *Community Covenant* and will join in fulfilling its responsibilities while I am a member of the TWU community.

---

<sup>27</sup> Philippians 4:8.

THIS IS EXHIBIT "C" REFERRED TO IN THE  
AFFIDAVIT OF ELLEN FAULKNER  
SWORN BEFORE ME AT PRINCE GEORGE  
THIS 9th DAY OF APRIL, 2014

A handwritten signature in black ink, appearing to read "Dennis", is written over a horizontal line.

A COMMISSIONER FOR TAKING AFFIDAVITS IN BRITISH COLUMBIA

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This is the 1<sup>st</sup> Affidavit  
of Ellen Faulkner in this case  
and was made on 09/04/2014

No. \_\_\_\_\_  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**BETWEEN:**

TREVOR JAMES LOKE

**PETITIONER**

AND

MINISTER OF ADVANCED EDUCATION OF BRITISH COLUMBIA

**RESPONDENT**

**AFFIDAVIT #1 OF ELLEN FAULKNER**

Janes Freedman Kyle Law Corporation  
340 – 1122 Mainland Street  
Vancouver, BC V6B 5L1  
Telephone: 604-687-0549  
Attention: Karey M. Brooks, File No.: 1202-001



This is the 1<sup>st</sup> Affidavit  
of Catherine Taylor in this case  
and was made on 09/04/2014

No. S-142908  
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

This is Exhibit "E" referred to in the  
affidavit of Tracy Iso  
sworn before me at January Vancouver  
this 16 day of January 2015

REVOR JAMES LOKE

PETITIONER

[Signature]  
A Commissioner for taking Affidavits  
for British Columbia

- and -

MINISTER OF ADVANCED EDUCATION OF BRITISH COLUMBIA

RESPONDENT

AFFIDAVIT #1 OF CATHERINE TAYLOR

I, CATHERINE TAYLOR, Professor, of the City of Winnipeg, in the Province of  
Manitoba, MAKE OATH AND SAY AS FOLLOWS:

**Areas of Expertise**

1. I am a Professor of Rhetoric and Communications and Professor and Director of Academic Programs at the Faculty of Education at the University of Winnipeg. I specialize in inclusive education and have spent much of my career studying and teaching and researching how well schools of various kinds function for their sexual minority (gay, lesbian and bisexual) students. My research has been funded by major granting councils and published in peer reviewed journals and edited collections.

**Qualifications**

2. I obtained my Ph.D. in Education from the Ontario Institute for Studies in Education at the University of Toronto in 2000. Attached to this Affidavit and marked as Exhibit "A" is a copy of my Research Profile.

3. I teach the following courses that cover, *inter alia*, the harm caused to sexual minority students by discrimination against them in their schools: Gender, Sex and Diversity; Critical Pedagogy and Student Diversity; Critical Literacy for Empowerment; and Critical Studies of Discourse.

**Instructions in Relation to this Proceeding**

4. I have been requested by the Petitioner to provide an opinion, drawing on my expertise in inclusive education, on the effects of the Trinity Western University Community (TWU) Covenant on sexual minority students. I have reviewed the Covenant, a copy of which is attached hereto as Exhibit "B". I address my opinion to both the effects of excluding sexual minority students from entry and the effects on those sexual minority students who do enter the University.

**Opinion**

5. In this document I use the commonly understood definition of discrimination within my discipline of Education studies, namely official and unofficial practices that accord some identity groups less respect than others. Discrimination creates a school climate where students feel unsafe and/or unaccepted simply for being who they are. Official discrimination against sexual minority students occurs through administrative practices such as banning Gay Straight Alliance student groups, prohibiting positive representations of sexual minority people in the curriculum, and requiring students to sign covenants agreeing not to have same-sex relationships. Unofficial discrimination includes negative comments about sexual minority people in general or about

individuals,<sup>1</sup> harassment of all kinds, and effective exclusion from everyday social interactions such as conversations about romantic relationships. Official discrimination fuels unofficial discrimination and compounds its effects.

6. TWU's insistence on the Covenant both enacts and authorizes others to enact discrimination against sexual minority students by defining marriage between a man and a woman as the only acceptable form of sexual intimacy. To understand the impact of this discriminatory requirement on sexual minority students, consider that what is being branded sinful and unhealthy goes to the deepest level of their romantic and affectional lives: who they fall in love with, with whom they want to build their families. Sexual minority students are being required to renounce their own natures as unhealthy as a condition of enrolment. This is a Catch-22 situation, where sexual minority students are excluded from entry if they will not sign a Covenant that is tantamount to a statement of inferiority, but are subject to discrimination as people with unhealthy sexualities if they do sign and enrol.

7. Students typically attend faith-based colleges because they (or at least their parents) are strongly attached to the faith community of the school or a similar faith community.<sup>2</sup> The faith community of the school may be shared by everyone in their entire social world as well. Being excluded from enrolment as a result of a discriminatory requirement deprives sexual minority students from accessing an education that integrates their personal, professional and spiritual lives that is open to sexual majority students. This is not a trivial harm when students are so strongly attached to the faith community that they desire to enrol in the school, even though sexual minority identity is highly stigmatized there.

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<sup>1</sup> E.g., Yarhouse et al. found that campus climate for sexual minority students is largely negative. M.A. Yarhouse, S.P. Stratton, J.B. Dean, & H.L. Brooke (2009). Listening to sexual minorities on Christian college campuses, *Journal of Psychology and Theology*, 37(2), 96-113.

<sup>2</sup> S.P. Stratton, J.B. Dean, M.A. Yarhouse & M.D. Lastoria (2013), Sexual minorities in faith-based higher education: a national survey of attitudes, milestones, identity and religiosity, *Journal of Psychology & Theology*, 41(1), 3-23.



8. The TWU Covenant is not only an example of a discriminatory action, but an egregious example. Apart from the residential school system,<sup>3</sup> it is hard to think of another example where school officials require minority students to renounce their identities as unworthy. Attraction to same-sex relationships is essential to sexual minority identity; remove same-sex attraction and there is no such identity. Trinity Western's requirement that students sign a statement agreeing that "sexual intimacy is reserved for marriage between one man and one woman" is therefore discrimination on the grounds of sexual identity, not just on grounds of behaviour. This is analogous to requiring Poles to sign a statement agreeing that the desire to be Polish is unhealthy, and is different not only in degree but in kind from rules that restrict personal behaviour in some faith communities, such as the requirement that women wear head-coverings or that believers follow a vegetarian diet.

9. I assume that some sexual minority students nevertheless sign the Covenant and attend the school, even though it discriminates against them, because of their own or their parents' strong attachment to the faith community of the school. This cannot be regarded as a free choice when the alternative is exclusion from the school.

10. The freedom not to sign the Covenant and not to attend the school would be particularly compromised in "closeted" students who have not disclosed their sexual minority identity even to their parents, much less to their peers. It is highly likely that some sexual minority students at Trinity Western University are closeted because they are struggling to reconcile their same-sex attractions with the belief system of the faith community, and also because being open about their sexual minority identity would expose them to discrimination.<sup>4</sup>

11. School attachment or connectedness – the feeling that one belongs in the school community and has good connections with staff and peers – is known to be important to student

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<sup>3</sup> B. Elias et al. (2012), Trauma and suicide behaviour histories among a Canadian indigenous population: An empirical exploration of the potential role of Canada's residential school system, *Social Science & Medicine*, 74(10), 1560-1569.

<sup>4</sup> S.P. Stratton, J.B. Dean, M.A. Yarhouse & M.D. Lastoria (2013), Sexual minorities in faith-based higher education: a national survey of attitudes, milestones, identity and religiosity, *Journal of Psychology & Theology*, 41(1), 3-23.

wellbeing and academic performance. Experiencing discrimination at school is known to weaken school attachment, and to increase social isolation, shame, anxiety, depression and increased risk of suicidality.<sup>5</sup> Sexual minority students are known to have elevated levels of these symptoms.<sup>6</sup>

12. Given the great importance of school attachment in the lives of students at faith-based school, and the school community's explicit condemnation of same-sex relationships,<sup>7</sup> the impact of discrimination would likely be more severe among those students than among students of secular colleges.<sup>8</sup> Apart from the harms listed in the preceding paragraph, there is the likelihood of harm done by interference with the development of a positive sexual identity including self-acceptance and integration into one's social world.<sup>9</sup> (A sign of the extreme importance of attachment to their faith communities is the phenomenon of Evangelical Christians undertaking so-called "reparative therapy" in a desperate effort to become heterosexual.<sup>10</sup>

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<sup>5</sup> C.A. King & C.R. Merchant (2008), Social and interpersonal factors relating to adolescent suicidality: A review of the literature, *Archives of Suicide Research*, 12(3), 181-96.

<sup>6</sup> J.R. Wolff & H.L. Himes (2010), Purposeful exclusion of sexual minority youth in Christian higher education: The implications of discrimination, *Christian Higher Education*, 9, 439-460. See also T. Peter & C. Taylor (2014), Buried above ground: A university-based study of risk/protective factors for sexual minority youth, *Journal of LGBT Youth*, 11(2), 125-149; T. Peter, L.W. Roberts & R. Buzdugan (2008), Suicidal ideation among Canadian youth: A multivariate analysis, *Archives of Suicide Research*, 12(3), 263-75; M.P., Marshal, L.J., Dietz, M.S., Friedman, R., Stall, H.A., Smith, J., McGinley, B.C., Thoma, P.J., Murray, A.R., D'Augelli, & , D.A. Brent (2011), Suicidality and depression disparities between sexual minority and heterosexual youth: A meta-analytic review, *Journal of Adolescent Health*, 49(2), 115-123; E.M. Saewyc, C. Poon, N. Wang, Y. Homma, A. Smith & the McCreary Centre Society (2007), Not yet equal: The health of lesbian, gay, & bisexual youth in BC (Vancouver, BC: McCreary Centre Society), [www.mcs.bc.ca](http://www.mcs.bc.ca); E.M. Saewyc, C.L. Skay, P. Hynds, S. Pettingell, L.H. Bearinger, M.D. Resnick, & E. Reis (2007) Suicidal ideation and attempts in North American school-based surveys: Are bisexual youth at increasing risk? *Journal of LGBT Health Research*, 3(2), 25-36.

<sup>7</sup> Stratton et al., op. cit.

<sup>8</sup> Stratton et al. and Yarhouse et al. (cited in this affidavit), who have been permitted to conduct research on school climate for sexual minority students on Evangelical college campuses, have taken the "insider's" approach that such colleges can become much more accepting of religious conservative sexual minority students without necessarily changing their doctrinal position on sexual behaviour. However, most researchers face significant barriers to conducting such research (institutional permission requirements and the difficulty of recruiting sexual minority participants in homophobic environments). The popular press has reported a growing body of anecdotal evidence of discrimination from sexual minority graduates and former students of Evangelical Christian colleges. See, e.g., L. Nelson (2012), No longer a silent minority, *Inside Higher Education* (<http://www.insidehighered.com/news/2012/12/17/gay-students-increasingly-vocal-evangelical-colleges>)

<sup>9</sup> Yarhouse et al. (op cit).

<sup>10</sup> American Psychological Association (2009), *Report of the American Psychological Association task force on appropriate therapeutic responses to sexual orientation* (Washington DC: American Psychological Association), <http://www.apa.org/pi/lgbt/resources/therapeutic-response.pdf>

Reparative therapy has been denounced as psychologically damaging and ineffective by all major professional organizations; e.g., American Medical Association, American Psychiatric Association, American Psychological Association, etc.)

13. The negative impacts of school-based discrimination are mitigated somewhat where school officials take a stand against discrimination by reaching out to sexual minority students in positive ways, as, for example, through “Gay Straight Alliance” clubs where their identities are affirmed.<sup>11</sup> This does not happen in schools where discrimination is official policy. In any case, sexual minority identity cannot be affirmed in any ordinary sense of the term by school officials who denounce same-sex relationships as unhealthy and sinful.

14. Students are also more resilient in the face discriminatory environments when they have family and peer support.<sup>12</sup> Sexual minority students in evangelical Christian colleges are much less likely to have family or peer support for their stigmatized identity than other students, because their family and friends are likely to be part of a similar discriminatory faith community as their school. Most would not have disclosed their sexual identity to a parent or sibling, and many would not have disclosed to a friend.<sup>13</sup> Unlike students who may be suffering other kinds of discrimination, they may not be able to turn to their families or friends for support.

15. The harm done by school climates that shame and otherwise discriminate against sexual minority students is widely recognized by researchers and educators. It is very serious harm. Every national, provincial and territorial teacher organization in the publicly funded school systems in this country is working on the issue, including, for example, the Ontario English Catholic Teachers Association. There is virtual consensus in the research and education

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<sup>11</sup> C.G. Taylor & T. Peter (2011), “We are not aliens, we’re people, and we have rights,” Canadian human rights discourse and high school climate for LGBTQ students, *Canadian Review of Sociology*, 48(3), 275-313; C.G. Taylor & T. Peter (2011), *Every class in every school: The First National Climate Survey on homophobia in Canadian schools: Final report*. (Toronto, ON: Egale Canada Human Rights Trust), [www.egale.ca](http://www.egale.ca)

<sup>12</sup> C.G. Taylor (2008), Counterproductive effects of parental consent in research involving LGBTTIQ Youth: International research ethics and a study of a transgender and Two-Spirit community in Canada, *Journal of LGBT Youth*, 5(3), 34-56.

<sup>13</sup> Yarhouse et al. (op cit) found that 75% of their sexual minority respondents had not disclosed to their mother, 82% to their father, 85% to a sibling, 42% to a friend.

communities that we cannot claim to be offering a safe education for sexual minority students in schools that tolerate their harassment and exclusion, and certainly not in schools where, like Trinity Western University, they are taught that they are disordered and that same-sex relationships are damnable and condemned by the Holy Bible.

16. I certify that I am aware of my duty to assist the court and not to be an advocate for any party; that I have made the Affidavit in conformity with this duty; and that if I am called to give oral or written testimony, that testimony will be given in conformity with this duty.

SWORN BEFORE ME at the City of )  
 )  
 Winnipeg, in the Province of Manitoba, )  
 )  
 this 9<sup>th</sup> day of April, 2014. )  
 )  
  
 )  
 A commissioner for taking affidavits )  
 in the Province of Manitoba )

  
 CATHERINE TAYLOR

THIS IS EXHIBIT "A" REFERRED TO IN THE  
AFFIDAVIT OF CATHERINE TAYLOR  
SWORN BEFORE ME AT WINNIPEG  
THIS 9th DAY OF APRIL, 2014



COLIN MORRISON

A COMMISSIONER FOR TAKING AFFIDAVITS IN MANITOBA  
NOTARY PUBLIC



**Catherine G. Taylor**  
**Professor of Rhetoric, Writing and Communications**  
**Professor and Director of Academic Programs, Faculty of Education**

## RESEARCH PROFILE

My research area is inclusive education for sexual and gender minority students in Canada's K-12 school system. For the last eight years my work has involved large-scale, mid-to-large team national studies in partnership with stakeholder organizations, through what I now call the "RISE UP" research program: "Resilience, Inclusion, Safety and Equity – Under Pressure"; the pressure of mounting scientific evidence that SGM children and youth are suffering a multitude of risk factors and that Faculties of Education are doing little to address this urgent reality. RISE UP involves four projects engaging different members of the school system community: students (completed), teachers (underway), school division superintendents (recently launched) and Education professors (SSHRC application under review). The first two projects have had significant uptake by Ministries of Education, school districts and teacher organizations and have had a direct impact on school division policy and provincial legislation. The third, recently launched project is a national large-scale study in partnership with Manitoba Association of School Superintendents. The fourth is a "phase 4" national study of LGBTQ-inclusive education in Faculties of Education. Details are provided in (1) through (4) below.

**(1) The First National Climate Survey on Homophobia in Canadian Schools.** (Completed. Total funding \$48,885 from project partner Egale Canada Human Rights Trust, U. Winnipeg, CIHR/SVR.) I was P.I. for this major national study of over 3700 high school students that responds to the urgent need for evidence-based policy and curriculum development to make schools safe and respectful for LGBTQ students and other students who are affected by oppressive sexuality and gender systems. This involved ongoing negotiation and relationship-building with school districts and ministries across Canada on a subject most would rather avoid. Project reports (see [egale.ca](http://egale.ca)) have been widely distributed with significant media, school system, government and scholarly impact across the country.

**(2) The Every Teacher Project.** (In third year of \$138,000 SSHRC SRG.) I serve as P.I. for this national study of Canadian teachers' experiences and perceptions of LGBTQ-inclusive education in partnership with The Manitoba Teacher's Society. **Every provincial and teacher organization in the country has endorsed** and actively promoted the project. We have closed data collection on the survey and have reported on our preliminary data analysis in many academic and school system events, with report production on the survey results planned for spring and summer 2014. We have been granted an additional \$5000 by the Manitoba Teachers' Society to conduct focus groups in rural and remote communities of Manitoba. We piloted focus groups in the spring and will conduct interviews and focus groups across the country in late April-early May 2014.

**(3) The National Inventory of School System Interventions in Support of LGBTQ Students.** I am P.I. for this study in partnership with Manitoba Association of School Superintendents. The study is one of five "areas" in a \$2 million CIHR-funded research program (Reducing Stigma, Promoting Resilience: Population Health Interventions for LGBTQ Youth, led by Elizabeth Saewyc, UBC). We secured the **endorsement of 42 national, provincial and territorial organizations** for the National Inventory and launched the project in December 2013 with an invitation to the CEO of every school district in Canada to complete an online survey detailing which interventions they have implemented, for what reasons, and with what estimation of success. Data will be analyzed to identify promising

intervention models for study in subsequent phases of the larger project in order to make evidence-based recommendations for interventions to implement to achieve particular objectives (e.g., reduce harassment, increase school connectedness) in particular contexts (e.g., rural, parochial).

**(4) Best Practices in Sexual and Gender Minority-Inclusive Teacher Education.** This project addresses the opportunities and challenges of developing effective teacher preparation strategies for contributing to the creation of inclusive school climates for sexual and gender minority (SGM) students. The study involves an environmental scan of B.Ed. programs across the country followed by surveys, interviews and focus groups through which we would identify systemic obstacles and promising approaches, followed by systematic evaluations of several of the most promising approaches for doing this work in different contexts, developing pilot curricula for integration into core B.Ed. courses and specialist certification courses, and recommendations to the field.

**(5) Research in Solidarity with Indigenous LGBTQ people.** I served as P.I. for a Manitoba-based survey/focus group study on Transgender/Two Spirit People of Manitoba funded by a \$50,000 grant from Crime Prevention Canada. The 2006 report and article (2009) have been widely distributed across North America and used in community-government discussions re: health services policy for transsexual people. I have published on a research ethics of solidarity with indigenous LGBTQ people (2011b). I recognize that indigenous LGBTQ students are extremely marginalized in Canadian society and I endeavour to focus on reaching FNMI participants and to report on relevant findings in my work.

## CONTRIBUTIONS TO TRAINING

I have trained and supervised 12 Honours and Master's level RAs for the Egale Climate Survey, SSHRC Every Teacher Project, and CIHR National Inventory (in ethics, school system liaison, research involving marginalized populations, survey methods, qualitative data analysis, conference presentation, report preparation). Since UW began offering graduate programs in 2009, I have taught the Research Methods course for the Cultural Studies M.A. and have hired graduate students through that venue; graduate Christopher Campbell serves as Project Coordinator for RISE UP. I include junior faculty members on my research teams and co-present and publish with them. I have served on the committees or as external examiner for the following M.A. and Ph.D. candidates:

- Supervisor, TL McMinn, Honours B.A., for her thesis on the roles and impacts of Gay-Straight Alliances in promoting resilience and shifting school climate (Women's and Gender Studies, U Winnipeg). Defended 2011.
- Committee member, Troy Reinhardt, M.Ed., U. Manitoba for his thesis on gender non-conforming male high school students. Defended 2012.
- External examiner, Michael O'Brien Moran, Ph.D., Education, U. Manitoba. A study of effect of a metacognitive heuristic on the writing performance of first year university students: A mixed methods study. Defended 2013.
- External examiner, Rachael Elizabeth Sullivan, Ph.D, Sociology, U. British Columbia. Place of promise? Queer Students' negotiation of risk, danger and safety at the University of British Columbia. Defended 2012.
- External examiner, Anika Stafford, Ph.D. (Gender, Race, Sexuality, and Social Justice), U. British Columbia. "Is It Still A Boy?": Hetero/Gender Normativity in Kindergarten. Defended 2013.
- External examiner, Jude Tate, Ph.D. (Leadership, Higher and Adult Education), OISE/University of Toronto. A Thin Veil of Inclusion: Sexual and Gender Minorities in Ontario

Universities. Defended February 2014.

## OTHER RESEARCH CONTRIBUTIONS

### *Roles*

- Chair, University Human Research Ethics Board, University of Winnipeg (2010 to present)
- SSHRC Leader, University of Winnipeg (2009 to present)
- CFHSS University Delegate (2009 to present)
- SSHRC reviewer, Standard Research Grant and Insight Grants competitions
- CIHR Committee member, Men's and Boys' Health, Team Grants competition
- Editorial Board Member/Reviewer, *English Quarterly*
- Reviewer, *Canadian Children's Literature*, *Canadian Journal of Community Mental Health*, *Canadian Review of Sociology*, *English Quarterly*, *Ethnologies*, *IRB: Ethics & Human Research*, *Journal of Canadian Studies*, *Journal of Homosexuality*, *Journal of LGBT Youth*, *Sociologie et Society and Techno-Style*.

### *Affiliations*

- Member, Planning Committee, Manitoba Mental Health and Wellness Conference
- Member, Canadian Society for Studies in Education (CSSE)
- Member, Canadian Association for the Study of Women and Education (CASWE)
- Member, Education Committee, Egale Canada Human Rights Trust
- Member, Pride Education Network (PrideNet)
- Member, Queer Studies in Education and Culture (QSEC)
- Researcher, Stigma and Resilience Among Vulnerable Youth Consortium (SARAVYC)
- Member, International Advisory Group for the LGBTQ Youth Research Network
- Member, Manitoba Education Research Network (MERN)
- Member, Sexuality Studies Association of Canada
- Member, UW Cultural Studies Research Group
- Member, Social Justice Network of Manitoba
- Partner, Promoting Relationships and Eliminating Violence Network (PREVNet)

## PUBLICATIONS AND PRESENTATIONS 2007-2014 (reverse chronological)

I work within the interdisciplinary tradition of critical education that combines empirical and conceptual research and have endeavoured to publish and present papers in key books, special issues and international journals that focus specifically on LGBTQ education and related topics in order to reach the researchers and stakeholders most involved in these issues. My work has been published by scholarly houses including Haworth, Peter Lang, Routledge, Taylor & Francies and the University of Toronto Press and in highly competitive international journals with low acceptance rates. Methodologically rigorous peer reviewed research has been crucial to the impact of my work in the school system and has resulted in a great many invitations to address school system organizations (see list at end of this document).

### **Refereed Books, monographs, book chapters, scholarly journal articles**



1. Taylor, C. (2014). Our right to choose: Religious conservatives versus LGBTQ-inclusive schools. In G. Walton (Ed.), *The Gay Agenda: Claiming Space, Identity, and Justice* (pp. 309-326). New York: Peter Lang.
2. Peter, T., & Taylor, C. (2013, in press). Buried above ground: A university-based study of risk/protective factors for sexual minority youth. *Journal of LGBT Youth*. (10,000 words)
3. Peter, T., Taylor, C., & Chamberland, L. (2013, in press). A queer day in Canada. *Journal of Homosexuality*.
4. Taylor, C., Paquin, S., & Peter, T. (2013). Homophobia research as discourse intervention: Ecological factors in the success of the First National Climate Survey on Homophobia in Canadian Schools. In L. Sokal & K. McCluskey (Eds.), *Community connections: Reaching out of the ivory tower*. pp. 130-139). Ulm, Germany: International Centre for Innovation in Education.
5. Taylor, C. (2012). Missives from the adult world to LGBTQ youth: *The Gallup's Guide to Modern Gay, Lesbian and Transgender Lifestyle*. Review essay. *Journal of LGBT Youth*, 9(4), 402-407. DOI:10.1080/19361653.2012.714194
6. Peter, T., & Taylor, C. (2012). Sexual and gender minority youth and the discourses of 'homophobia high': The first national climate survey on homophobia and transphobia in Canadian schools. In L. Samuelson & W. Antony (Eds.), *Power & resistance: Critical thinking about Canadian social issues* (pp. 72-97). Winnipeg: Fernwood.
7. McLeod-Rogers, J., & Taylor, C. (2011a). *Across the disciplines: Academic writing and reading*. Toronto, ON: Pearson Longman. 600 pages. Equal co-authors.
8. Taylor, C. (2011a). Fatally flawed? Discursive evidence from the movement to establish Lesbian Studies. *Feminism and Psychology*, 21(2), 218-227.
9. Taylor, C. (2011b). "What won't I do today?" Education's calculations and social justice. [MERN Keynote January 2010]. *The MERN Journal* [Manitoba Education Research Network], 4, 92-97. Invited.
10. Taylor, C., & Peter, T. (2011b). Left behind: Sexual and gender minority students in Canadian high schools in the new millennium. [Aggregate data analysis of the combined phase one and phase two data. See Taylor, Peter & Paquin (2011) for Phase One data analysis.] In T. Morrison, M. Morrison, D.T. McDermott, & M.A. Carrigan (Eds.), *Sexual minority research in the new millennium* (pp. 127-157). Hauppauge, NY: Nova Science.
11. Taylor, C., & Peter, T. (2011a). "We are not aliens, we're people, and we have rights." Canadian human rights discourse and high school climate for LGBTQ students. *Canadian Review of Sociology*, 48(3), 275-313.
12. Taylor, C., & Ristock, J. (2011b). LGBTQ families in Canada: Private life and public discourse. In N. Mandell & A. Duffy (Eds.), *Canadian families: Diversity, conflict and change* (pp. 125-163). Toronto: Nelson.
13. Taylor, C., & Ristock, J. (2011a). "We are all treaty people": An anti-oppressive ethics of solidarity with LGBTQ Aboriginal people living with partner violence. In J. Ristock (Ed.), *Intimate partner violence in LGBTQ people's lives* (pp. 303-321). New York, NY: Routledge. Authored 80%.
14. Taylor, C. (2009a). Health and safety issues for Aboriginal Transgender/Two Spirit people in Manitoba. *Canadian Aboriginal Journal of Community-based HIV/AIDS Research*, 2, 65-84.
15. Taylor, C. (2008a). Counterproductive effects of parental consent in research involving LGBTTIQ Youth: International research ethics and a study of a Transgender and Two-Spirit community in Canada. *Journal of LGBT Youth*, 5(3), 34-56.

16. Taylor, C. (2008b). Research ethics review as a heteronormative technology of academia. In D. Julien & J. Lévy (Eds.), *Intersections* (pp. 91-110). Montreal: Presse de l'Université du Québec.
17. Taylor, C. (2007a). A human-rights approach to stopping homophobic bullying in schools. *Journal of Gay and Lesbian Social Services*, 19(3/4), 157-172. Reprinted in J. Sears (Ed.), *Homophobic bullying* (Binghamton, NY: Haworth Press, 2009). Reprinted in J. McLeod-Rogers & C. Taylor, *Across the disciplines: Academic writing and reading* (Toronto, ON: Longman, 2011).
18. Taylor, C. (2007b). "Am I that name?" Constructions and misconstructions of Lesbian Studies. *Resources for Feminist Research*, 32(1/2), 86-113.

**Other refereed contributions including conference proceedings and papers**

19. Taylor, C., Peter, T., & Paquin, S. (2011). "School is not a safe place for anyone like me": The First National Climate Survey on Homophobia in Canadian Schools. [Refereed Proceedings: Phase One analysis]. In W. Craig, D. Pepler, & J. Cummings (Eds.), *Creating a world without bullying* (pp. 67-85). PREVNet Series, Volume 3. Ottawa: PREVNet.
20. Taylor, C., & Peter, T. (2010b). Facts of life in Homophobia High: Findings of the First National Climate Survey. Opening plenary keynote. Queer Studies in Education and Culture, Canadian Society for Studies in Education, Concordia University, Montreal, 28 May 2010. In A.P. Grace & S.J. Flynn (Eds.), *Queer issues in the study of education and culture: A 2010 Canadian Society for Studies in Education (CSSE) Pre-Conference* (pp. 355-366). [Refereed proceedings]. Edmonton, AB: University of Alberta.
21. Taylor, C., Peter, T., & Schachter, K. (2009d). Making the case for inclusive safe schools policy: The first national climate survey on homophobia in Canadian schools. In A.P. Grace & S.J. Flynn (Eds.), *Queer Issues in the study of education and culture: A 2009 Canadian Society for Studies in Education (CSSE) pre-Conference* (pp. 66-68). Edmonton, AB: University of Alberta. Paper presented at the Congress of the Humanities and Social Sciences, Carleton University, Ottawa, 22 May 2009.

**Non-refereed contributions**

22. 23. Peter, T., & Taylor, C. (2013). Queer bullying: How homophobia, biphobia and transphobia hurt students. Herizons, Spring, 22-27.
23. Taylor, C. (2012). A Canadian thaw? Signs of progress in the struggle for LGBTQ-inclusive schools. *MASS journal: The official magazine of the Manitoba Association of School Superintendents*, Fall, 20-24. Invited.
24. Taylor, C. (2012). Conversion therapy fantasies and religious opposition to LGBTQ-inclusive education. In Smith, M. (Ed.), *Beyond the queer alphabet: Conversations on gender, sexuality & intersectionality* (pp. 104-107). E-book: Canadian Federation for the Humanities and Social Sciences.
25. Taylor, C., & Peter, T., with McMinn, T.L., Paquin, S., Beldom, S., Ferry, A., Gross, Z., & Schachter, K. (2011). *Every class in every school: The First National Climate Survey on Homophobia in Canadian Schools: Final Report*. Toronto, ON: Egale Canada Human Rights Trust. 160 pages. Available: [www.egale.ca](http://www.egale.ca)
26. Taylor, C., & Peter, T., with McMinn, T.L., Schachter, K., Beldom, S., Ferry, A., Gross, Z., & Paquin, S. (2011). *Every class in every school: Final report on the first national climate survey on homophobia, biophobia, and transphobia in Canadian schools. Executive Summary*. Toronto, ON: Egale Canada Human Rights Trust. Available: [www.egale.ca](http://www.egale.ca)
27. Taylor, C., Peter, T., Ferry, A., McMinn, T.L., & Paquin, S. (2010). *The First National Climate Survey on Homophobia in Canadian Schools*. A series of 14 confidential reports to participating school districts. Winnipeg: Egale Canada Human Rights Trust.

28. Taylor, C., & Peter, T., with Schachter, K., Paquin, S., Beldom, S., Gross, Z., & McMinn, T.L. (2009). *Youth speak up about homophobia and transphobia: The First National Climate Survey on Homophobia in Canadian Schools: Phase 1 Report*. Toronto, ON: Egale Canada Human Rights Trust. 105 pages.

#### **In preparation or under review**

29. McLeod Rogers, J., Taylor, C., & Whalen, T. (eds.). *Finding McLuhan: Shifting mediums/persisting messages*. Under review by U. Regina Press. 350 pages.
30. Ristock, J., & Taylor, C. (Eds.). Special issue on Canadian scholarship and creative works, *Journal of Lesbian Studies*. Submissions are now under peer review.

#### **Conference Presentations**

1. Taylor, C., Meyer, L., & Peter, T. (forthcoming). Perspectives of Gender and Sexual Diversity (GSD)-Inclusive Education: A National Survey of K-12 Educators. Addressing a Poverty of Knowledge: The Past, Present, and Future of LGBTQ Education Research. Non-presenting author. Presidential Session. AERA, Philadelphia, 29 April 2014. Intl
2. Taylor, C. (forthcoming). Practice Gaps and Experiential Conflicts, paper presented as part of the panel, Comparative and International Perspectives on Issues of Sexual Orientation and Gender Identity in Education, International Comparative Education Conference, Toronto, 13 March 2014. Intl
3. Taylor, C. (2013). Bill 18 and LGBTQ Inclusion in Manitoba Schools. Isaac Pitblado Lectures. Law Society of Manitoba. Hotel Fort Garry, Winnipeg, 23 November 2013. Ntl
4. Taylor, C. (2013). Bill 18 and the case for LGBTQ inclusive schools. Little Queer Schoolhouse Series. Millennial Library, Winnipeg, 16 November 2013. Lcl
5. Taylor, C. (2013). Research Ethics Involving Children and Youth in Physical Education. Roundtable participant, Joanie Hallis, Chair; Nathan Hall, Organizer. Council of University Professors and Researchers. [CUPR is a national council organized under the auspices of, and supported by, Physical and Health Education Canada (PHE) Canada.] Winnipeg, 24 October 2013. Ntl
6. Taylor, C. (2013). Session moderator, Pedagogies of Witness, participants Mireille Lamontagne, Marilou McPhedran, Kathryn Ready. Caring for Difficult Knowledge workshop, U Winnipeg, 28 Sept 2013. Ntl.
7. Taylor, C., Peter, T. and Campbell, C. (2013). Preliminary findings of the Every Teacher Project. With CSSE QSEC/CASWE, CFHSS, Congress, Victoria, 4 June. Ntl.
8. Taylor, C. and Short, D. 2013. Preliminary findings of the Every Teacher project CAPSLE, Winnipeg, May 7. Ntl
9. Taylor, C. and Short, D. (2013). Human Rights and Hallway Wrongs: Ending the Unconstitutional Embargo on LGBT Inclusion in School Life, CAPSLE keynote, Winnipeg, May 6. Ntl
10. Taylor, C., Olson, P. & Campbell, C. LGBTQ-inclusive education and the *Every Teacher* Project. Manitoba Education Research Network, Frontier School Division Office, 25 January 2013. Rgl
11. Taylor, C. (2012). Relative harms: LGBTQ-Inclusive Schools v. religious conservatives. Are we there yet? Human Rights Commission conference, Canadian Association of Statutory Human Rights Agencies (CASHRA), Winnipeg, 18-19 June 2012. Ntl
12. Taylor, C. (2012). Conversion Therapy, Relative Harms, and Religious Conservatives v. LGBTQ-Inclusive Schools. Queer Studies in Education and Culture/Canadian Society for Studies in Education, Congress of the Humanities and Social Sciences, University of Waterloo, 26-30 May 2012. Ntl

13. Taylor, C., Peter, T., Kennedy, H., and Chamberland, L. (2011). Lessons learned at Homophobia High: Canadian human rights discourse and LGBTQ youth. Human Rights Conference, Outgames, Vancouver, 26 July 2011. Intl
14. Taylor, C. (2011). Every class in every school: Final Report on the First National Climate Survey on Homophobia, Biphobia and Transphobia in Canadian Schools. Egale Canada AGM, 12 May 2011. Ntl
15. Taylor, C. (2011). Including sexual and gender minority students in “inclusive education”: Six key lessons learned from LGBTQ youth. MERN Cisco conference, 15 April 2011. Rgl
16. Taylor, C. (2011). Aligning hallway pedagogy with human rights: Learnings from the First National Climate Survey on Homophobia and Transphobia in Canadian Schools. Social Justice and Equity representatives of all Manitoba teachers associations. Manitoba Teachers Society McMaster House, Winnipeg, 5 February 2011. Rgl
17. Taylor, C. (2011). Aligning hallway pedagogy with human rights: Learnings from the First National Climate Survey on Homophobia and Transphobia in Canadian Schools. Manitoba Education Research Network (MERN) Forum, University of Manitoba, 21 January 2011. Rgl
18. Taylor, C. (2011). Every class in every school: Homophobia and Transphobia in Canadian Schools. Teacher group developing system wide response and resources for Seven Oaks School Division, 19 January 2011. Local
19. Taylor, C. (2010). Report on the Safety and Wellbeing of Sexual and Gender Minority Youth: The First National Climate Survey on Homophobia and Transphobia in Canadian Secondary Schools. CIHR Innovations in Sex and Gender Health Research. Toronto, 21 November 2010. Intl
20. Taylor, C. (2010). Large-scale studies of health and wellbeing among sexual and gender minority youth in Canada. Panelist with colleagues Line Chamberland (UQAM) and Elizabeth Saewyc (UBC). CIHR Innovations in Sex and Gender Health Research Conference, Toronto, 22-23 November 2010. Intl
21. Taylor, C. (2010). Every class in every school: Six lessons from Canada's sexual and gender minority youth. Invited keynote session paper. Social Justice conference, Winnipeg, 18 November 2010. Ntl
22. Taylor, C., & Peter, T. (2010). LGBTQ Youth Calling Canada's Educators: Findings of the First National Climate Survey on Homophobia and Transphobia in Canadian Schools. Canadian Educational Research Association, Canadian Society for Studies in Education. Concordia University, Montreal, 29 May 2010. Ntl
23. Taylor, C., & Peter, T. (2010). Facts of life in Homophobia High: Findings of the First National Climate Survey. Opening plenary keynote. Queer Studies in Education and Culture, Canadian Society for Studies in Education, Concordia University, Montreal, 28 May 2010. Invited. Intl
24. Taylor, C., & Peter, T. (2010). Findings of the First National Climate Survey of Homophobia and Transphobia in Canadian Schools. Paper presented in panel, Comparative Perspectives on LGBT Youth Experiences in Education, at the 54th annual conference of the Comparative and International Education Society, Reimagining Education, University of Chicago, 2 March 2010. Intl
25. Taylor, C. (2010). What won't I do today? Education's calculations and social justice. Invited keynote. Manitoba Education Research Network forum, Learning What Works for Social Justice, 29 January 2010. Rgl
26. Peter, T., & Taylor, C. (2009). Inclusive safe-schools policy as a form of mental health promotion: The First National Climate Survey on Homophobia in Canadian Schools. Paper presented at the Canadian Association for Suicide Prevention conference, October 2009, Brandon, Manitoba. Ntl

27. Taylor, C., & Peter, T. (2009). Findings and next steps: The First National Climate Survey on Homophobia in Canadian Schools. Paper presented at Diversité Sexuelle et de Genre/Sexual and Gender Diversity, Colloque annuel SVR, 20-22 novembre 2009, UQAM, Montréal. Ntl
28. Taylor, C., Peter, T., & Schachter, K. (2009) Making the case for inclusive schools: The First National Climate Survey of Homophobia and Transphobia in Canadian Schools. Canadian Society for Studies in Education Conference, Carleton University, Ottawa, 22 May 2009. Ntl
29. Taylor, C., Peter, T., & Paquin, S. (2009). Youth speak up for safer schools: Findings of the First National Climate Survey on Homophobia in Canadian Schools. Paper presented at the PREVNet 4<sup>th</sup> Annual Conference, Life Without Bullying, Metro Toronto Convention Centre, 5 June 2009. Ntl
30. Taylor, C. (2008). Challenges and successes in conducting the First National Climate Survey of Homophobia and Transphobia in Canadian Schools. Paper presented in panel, Comparative Perspectives on LGBT Youth Experiences in Education, at the 52nd annual conference of the Comparative and International Education Society (CIES), Gaining Educational Equity Around the World, Columbia University, New York City, 20 March 2008. Intl
31. Taylor, C. (2007). "Am I that name?" Constructions and misconstructions of Lesbian Studies. Paper presented in panel, Lesbian Studies, race, class, and silences, Lesbian Lives XIV, University College Dublin, June 14-16, 2007. Intl
32. Taylor, C. (Chair). (2007). Power struggles: Violence and abuse, with papers from J. Ristock, U Manitoba; M. Bachman, U. Michigan; C. Donovan, U. Sunderland; & M. Hester, U. Bristol. Lesbian Lives XIV conference at University College Dublin, Ireland, June 14-16, 2007: Intl
33. Taylor, C. (Chair). (2007). Sexuality, education, and queering Psychology, with papers from E. Peel, Lesbian Lives XIV conference in at University College Dublin, Ireland, June 14-16, 2007: Aston U; V. Clarke, U. West of England; E. Formby, Sheffield Hallam U.; and A. Gruszczynska, Aston U. Lesbian Lives XIV conference at University College Dublin, Ireland, June 14-16, 2007: Intl

**Presentations to Government and Professional Associations:**

34. Bill 18 and the case for LGBTQ-inclusive Schools. Keynote. Council of School Leaders, SAGE Conference, Stonewall, 25 October 2013.
35. Bill 18 and the case for LGBTQ-inclusive schools. B.Ed. PD series, University of Winnipeg, 23 September 2013.
36. Bill 18 and the case for LGBTQ-inclusive schools. Seven Oaks School Division Administrators meeting, 950 Jefferson, 19 September 2013.
37. Bill 18 and the case for GSAs. Submission to the Manitoba Legislature Committee Hearings on Bill 18. 11 Sept 2013.
38. LGBTQ Human Rights and Bill 18. Global College's summer institute Adventures in Global Citizenship, UW, 14 August 2013.
39. Making the Case for LGBTQ-inclusive Education. OutShine GSA Summit, Toronto, 18 May 2013.
40. Winnipeg School Division Safe Schools Committee, 15 May 2013.
41. Leadership in Building Safe and Caring Schools: A LGBTQ Perspective. Safe and Caring Schools Leadership Forum, MB Dept of Education, Winnipeg, May 10.
42. Safe and Caring Schools for LGBTQ Students, with Donn Short, Council On School Leadership, Winnipeg, 27 April.
43. Bill 18 and LGBTQ students. Safe Schools Network, MSBA building, Winnipeg, 19 Mar.
44. Catherine Taylor, Paul Olson, and Christopher Campbell. LGBTQ-Inclusive Education and The

- Every Teacher* Project. MERN, Frontier School Division Office, 25 Jan.
45. Every Class, Every School, Every Teacher: Why We Need to Make It Better for LGBTQ Students . . . Now. Ontario English Catholic Teachers Association (OECTA) Regional Sessions, Thunder Bay Jan 18, Kingston Feb 8.
  46. LGBTQ-Inclusive Education and The *Every Teacher* Project, Social Justice and Equity Chairs, Manitoba Teachers Society, Nov 23. Keynote.
  47. LGBTQ-Inclusive Education and The *Every Teacher* Project. Canadian Teachers' Federation, Ottawa, Nov 15. Panel presentation.
  48. Every Class, Every School, Every Teacher: Why We Need to Make It Better for LGBTQ Students . . . Now. Ontario English Catholic Teachers Association (OECTA) Regional Sessions, Thunder Bay 18 Jan, Kingston 8 Feb 2013.
  49. LGBTQ-Inclusive Education and The *Every Teacher* Project. Keynote. Social Justice and Equity Chairs, Manitoba Teachers Society, 23 Nov 2013.
  50. LGBTQ-Inclusive Education and The *Every Teacher* Project. Canadian Teachers' Federation, Ottawa, 15 Nov 2012.
  51. Peter, T. & Taylor, C. Impacts of hostile school climate on LGBTQ youth psychological wellbeing and social attachment. Suicide Summit, Toronto, 31 May 2012.
  52. What is a just teacher to do? Homophobia in the hallways of Canadian schools. Keynote, Just Teachers conference, Manitoba School Improvement Program/Manitoba Education Research, Manitoba Teachers' Society, Winnipeg, 10 May 2012.
  53. Every class in every school: Why we need to make it better now for LGBTQ students now. Keynote. Reaching Every Student conference, Ontario English Catholic Teachers' Association, Toronto, 4 May 2012.
  54. Six Lessons from Canada's Youth on Homophobia, Biphobia, and Transphobia in Canadian Schools. Louis Riel School Division GSA Summit, JH Bruns School, 14 February 2012.
  55. Six Lessons from LGBTQ youth for Canadian Teachers. Keynote lecture, CHARGE conference , UW Education Students Association, 11 February 2012.
  56. Six Lessons from Canada's Youth on Homophobia, Biphobia, and Transphobia in Canadian Schools. Teen Service Network Professional Development Day, CanadInns Polo Park, 2 February 2012.
  57. Every class in every school: Six lessons from the First National Climate Survey on Homophobia in Canadian Schools. Elmwood High School middle year and senior years teachers, 25 November 2011.
  58. The Every Teacher Project: MTS research partnership. Social Justice and Equity Chairs, Manitoba Teachers Society. 5 November 2011.
  59. Every class in every school: Six lessons from the First National Climate Survey on Homophobia in Canadian Schools. Human Rights and Social Justice Standing Committee, Winnipeg School Division, 1 November 2011.
  60. Canadian LGBTQ Youth and Cyberspace: Uses, Abuses, and Excuses of Electronic Communications Media. It's a Cyber World: What educators need to know. The Canadian Safe School Network Conference, Winnipeg, 9 November 2011.
  61. Every class in every school: Six lessons from the First National Climate Survey on Homophobia in Canadian Schools. Keynote Lecture, University of Alberta Annual Inside/OUT Speakers Series, Edmonton, 11 October 2011. Invited. 11 October 2011.
  62. "Make it better": Moving from hostile climate to LGBTQ-inclusive schools from coast to coast to coast. Ministry of Education, with 65 senior managers and directors from 6 ministries, Edmonton, 11

October 2011.

63. Key Findings from the First National Climate Survey on Homophobia in Canadian Schools. Edmonton Public Schools' public board meeting 12 October 2011.
64. Every class in every school: Six lessons from the First National Climate Survey on Homophobia in Canadian Schools. Edmonton Public Schools Diversity, FNMI Education, and Social Justice group/Student Learning Services Staff. Woodcroft School, 12 October 2011.
65. Making it better now: Homophobia, biphobia and transphobia in Canadian schools. Manitoba Teachers Society, Professional Labour and Leadership Conference, Winnipeg, 25 August 2011.
66. Under pressure: LGBTQ inclusive education and the psychic life of homophobic schools. Invited lecture, Annual Symposium hosted by Seven Oaks School Division, Winnipeg, 18 May 2011.
67. Every class in every school: Final report of the first national climate survey on homophobia, biphobia, and transphobia in Canadian Schools. Invited keynote. Egale Canada Annual General Meeting. Winnipeg, 12 May 2011.
68. Aligning hallway pedagogy with human rights: Learnings from the First National Climate Survey on Homophobia and Transphobia in Canadian Schools. Meeting of Social Justice and Equity representatives of Manitoba teachers associations. Manitoba Teachers Society, McMaster House, Winnipeg, 5 February 2010.
69. Aligning hallway pedagogy with human rights: Learnings from the First National Climate Survey on Homophobia and Transphobia in Canadian Schools. Manitoba Education Research Network (MERN) Forum, University of Manitoba, 21 January 2010.
70. Every class in every school: Homophobia and Transphobia in Canadian Schools. Teacher group developing system wide response and resources for Seven Oaks School Division, 19 January 2011.
71. Every class in every school: Report on Homophobia and Transphobia in Canadian Schools for Manitoba Teachers Society Teacher Action Cohort. McMaster House, Winnipeg, 11 December 2010.
72. Every class in every school: Report on Homophobia and Transphobia in Canadian Schools for Seven Oaks School Division. Seven Oaks Senior Administrators, Principals, VPs. Immigrant Centre, Winnipeg, 25 November 2010.
73. Report on the Safety and Wellbeing of Sexual and Gender Minority Youth: The First National Climate Survey on Homophobia and Transphobia in Canadian Secondary Schools. CIHR Innovations in Sex and Gender Health Research. Toronto, 21 November 2010.
74. Six lessons from Canada's Youth, invited keynote paper in the Human Rights stream, "Social Justice: Educating for Action" conference Winnipeg, 18 November 2010.
75. Healthy schools for healthy lives: The first national climate survey on homophobia and transphobia in Canadian schools. Public Health Agency of Canada (PHAC), Regional meeting with national videoconference, 18 May 2010.
76. The First National Climate Survey of Homophobia and Transphobia in Canadian Schools and Ontario's Equity and Diversity in Education Strategy. Ontario Teachers' Federation Curriculum Forum, 480 University Avenue, Toronto, 23 May 2009.

THIS IS EXHIBIT "B" REFERRED TO IN THE  
AFFIDAVIT OF CATHERINE TAYLOR  
SWORN BEFORE ME AT WINNIPEG  
THIS 9th DAY OF APRIL, 2014

  
COLIN MORRISON

A COMMISSIONER FOR TAKING AFFIDAVITS IN MANITOBA  
NOTARY PUBLIC *CSM.*



## TRINITY WESTERN UNIVERSITY

### Community Covenant Agreement

#### Our Pledge to One Another

Trinity Western University (TWU) is a Christian university of the liberal arts, sciences and professional studies with a vision for developing people of high competence and exemplary character who distinguish themselves as leaders in the marketplaces of life.

#### *1. The TWU Community Covenant*

The University's mission, core values, curriculum and community life are formed by a firm commitment to the person and work of Jesus Christ as declared in the Bible. This identity and allegiance shapes an educational community in which members pursue truth and excellence with grace and diligence, treat people and ideas with charity and respect, think critically and constructively about complex issues, and willingly respond to the world's most profound needs and greatest opportunities.

The University is an interrelated academic community rooted in the evangelical Protestant tradition; it is made up of Christian administrators, faculty and staff who, along with students choosing to study at TWU, covenant together to form a community that strives to live according to biblical precepts, believing that this will optimize the University's capacity to fulfil its mission and achieve its aspirations.

The community covenant is a solemn pledge in which members place themselves under obligations on the part of the institution to its members, the members to the institution, and the members to one another. In making this pledge, members enter into a contractual agreement and a relational bond. By doing so, members accept reciprocal benefits and mutual responsibilities, and strive to achieve respectful and purposeful unity that aims for the advancement of all, recognizing the diversity of viewpoints, life journeys, stages of maturity, and roles within the TWU community. It is vital that each person who accepts the invitation to become a member of the TWU community carefully considers and sincerely embraces this community covenant.

#### *2. Christian Community*

The University's acceptance of the Bible as the divinely inspired, authoritative guide for personal and community life<sup>1</sup> is foundational to its affirmation that people flourish and most fully reach their potential when they delight in seeking God's purposes, and when they renounce and resist the things that stand in the way of those purposes being fulfilled.<sup>2</sup> This ongoing God-enabled pursuit of a holy life is an inner transformation that actualizes a life of purpose and eternal significance.<sup>3</sup> Such a distinctly Christian way of living finds its fullest expression in Christian love, which was exemplified fully by Jesus

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The Biblical passages cited in this document serve as points of reference for discussion or reflection on particular topics. TWU recognizes the necessity of giving careful consideration to the complexities involved in interpreting and applying biblical passages to contemporary issues and situations.

<sup>1</sup> Deuteronomy 6:4-9; Psalm 19:7-11; 2 Timothy 3:16

<sup>2</sup> Matthew 6:31-33; Romans 8:1-17; 12:1-2; 13:11-14; 16:19; Jude 20-23; 1 Peter 2:11; 2 Corinthians 7:1.

<sup>3</sup> 2 Peter 1:3-8; 1 Peter 2:9-12; Matthew 5:16; Luke 1:74-75; Romans 6:11-14, 22-23; 1 Thessalonians 3:12-13, 4:3, 5:23-24; Galatians 5:22; Ephesians 4:22-24, 5:8.

Christ, and is characterized by humility, self-sacrifice, mercy and justice, and mutual submission for the good of others.<sup>4</sup>

This biblical foundation inspires TWU to be a distinctly Christian university in which members and others observe and experience truth, compassion, reconciliation, and hope.<sup>5</sup> TWU envisions itself to be a community where members demonstrate concern for the well-being of others, where rigorous intellectual learning occurs in the context of whole person development, where members give priority to spiritual formation, and where service-oriented citizenship is modeled.

### ***3. Community Life at TWU***

The TWU community covenant involves a commitment on the part of all members to embody attitudes and to practise actions identified in the Bible as virtues, and to avoid those portrayed as destructive. Members of the TWU community, therefore, commit themselves to:

- cultivate Christian virtues, such as love, joy, peace, patience, kindness, goodness, faithfulness, gentleness, self-control, compassion, humility, forgiveness, peacemaking, mercy and justice<sup>6</sup>
- live exemplary lives characterized by honesty, civility, truthfulness, generosity and integrity<sup>7</sup>
- communicate in ways that build others up, according to their needs, for the benefit of all<sup>8</sup>
- treat all persons with respect and dignity, and uphold their God-given worth from conception to death<sup>9</sup>
- be responsible citizens both locally and globally who respect authorities, submit to the laws of this country, and contribute to the welfare of creation and society<sup>10</sup>
- observe modesty, purity and appropriate intimacy in all relationships, reserve sexual expressions of intimacy for marriage, and within marriage take every reasonable step to resolve conflict and avoid divorce<sup>11</sup>
- exercise careful judgment in all lifestyle choices, and take responsibility for personal choices and their impact on others<sup>12</sup>
- encourage and support other members of the community in their pursuit of these values and ideals, while extending forgiveness, accountability, restoration, and healing to one another.<sup>13</sup>

In keeping with biblical and TWU ideals, community members voluntarily abstain from the following actions:

<sup>4</sup> Matthew 22:37-40; 1 Peter 5:5; Romans 13:8-10; 1 John 4:7-10; Philippians 2:1-5; 1 Corinthians 12:31b-13:8a; Romans 12:1-3, 9-10; John 15:12-13, 17; 1 John 3:10-11, 14-16; Ephesians 5:1-2, 21

<sup>5</sup> From TWU's "Envision the Century" Strategic Directions Document, p 5 ("Ends").

<sup>6</sup> Galatians 5:22-24; Colossians 3:12-17; Isaiah 58:6-8; Micah 6:8.

<sup>7</sup> Proverbs 12:19; Colossians 3:9; Ephesians 4:25; Leviticus 19:11; Exodus 20:16; Matthew 5:33-37.

<sup>8</sup> Ephesians 4:29; Proverbs 25:11; 1 Thessalonians 5:11.

<sup>9</sup> Genesis 1:27-28; Psalm 139:13-16; Matthew 19:14; Proverbs 23:22.

<sup>10</sup> Romans 13:1-7; 1 Peter 2:13-17; Genesis 1:28; Psalm 8:5-8; 2 Thessalonians 3:6-9.

<sup>11</sup> Genesis 2:24; Exodus 20:14, 17; 1 Corinthians 7:2-5; Hebrews 13:4; Proverbs 5:15-19; Matthew 19:4-6; Malachi 2:16; Matthew 5:32.

<sup>12</sup> Proverbs 4:20-27; Romans 14:13, 19; 1 Corinthians 8:9, 12-13, 10:23-24; Ephesians 5:15-16.

<sup>13</sup> James 5:16; Jude 20-23; Romans 12:14-21; 1 Corinthians 13:5; Colossians 3:13.

- communication that is destructive to TWU community life and inter-personal relationships, including gossip, slander, vulgar/obscene language, and prejudice<sup>14</sup>
- harassment or any form of verbal or physical intimidation, including hazing
- lying, cheating, or other forms of dishonesty including plagiarism
- stealing, misusing or destroying property belonging to others<sup>15</sup>
- sexual intimacy that violates the sacredness of marriage between a man and a woman<sup>16</sup>
- the use of materials that are degrading, dehumanizing, exploitive, hateful, or gratuitously violent, including, but not limited to pornography
- drunkenness, under-age consumption of alcohol, the use or possession of illegal drugs, and the misuse or abuse of substances including prescribed drugs
- the use or possession of alcohol on campus, or at any TWU sponsored event, and the use of tobacco on campus or at any TWU sponsored event.

#### ***4. Areas for Careful Discernment and Sensitivity***

A heightened level of discernment and sensitivity is appropriate within a Christian educational community such as TWU. In order to foster the kind of campus atmosphere most conducive to university ends, this covenant both identifies particular Christian standards and recognizes degrees of latitude for individual freedom. True freedom is not the freedom to do as one pleases, but rather empowerment to do what is best.<sup>17</sup> TWU rejects legalisms that mistakenly identify certain cultural practices as biblical imperatives, or that emphasize outward conduct as the measure of genuine Christian maturity apart from inward thoughts and motivations. In all respects, the TWU community expects its members to exercise wise decision-making according to biblical principles, carefully accounting for each individual's capabilities, vulnerabilities, and values, and considering the consequences of those choices to health and character, social relationships, and God's purposes in the world.

TWU is committed to assisting members who desire to face difficulties or overcome the consequences of poor personal choices by providing reasonable care, resources, and environments for safe and meaningful dialogue. TWU reserves the right to question, challenge or discipline any member in response to actions that impact personal or social welfare.

#### **Wise and Sustainable Self-Care**

The University is committed to promoting and supporting habits of healthy self-care in all its members, recognizing that each individual's actions can have a cumulative impact on the entire community. TWU encourages its members to pursue and promote: sustainable patterns of sleep, eating, exercise, and preventative health; as well as sustainable rhythms of solitude and community, personal spiritual disciplines, chapel and local church participation,<sup>18</sup> work, study and recreation, service and rest.

<sup>14</sup> Colossians 3:8; Ephesians 4:31.

<sup>15</sup> Exodus 20:15; Ephesians 4:28.

<sup>16</sup> Romans 1:26-27; Proverbs 6:23-35.

<sup>17</sup> Galatians 5:1,13; Romans 8:1-4; 1 Peter 2:16.

<sup>18</sup> Ephesians 5:19-20; Colossians 3:15-16; Hebrews 10:25.

### **Healthy Sexuality**

People face significant challenges in practicing biblical sexual health within a highly sexualized culture. A biblical view of sexuality holds that a person's decisions regarding his or her body are physically, spiritually and emotionally inseparable. Such decisions affect a person's ability to live out God's intention for wholeness in relationship to God, to one's (future) spouse, to others in the community, and to oneself.<sup>19</sup> Further, according to the Bible, sexual intimacy is reserved for marriage between one man and one woman, and within that marriage bond it is God's intention that it be enjoyed as a means for marital intimacy and procreation.<sup>20</sup> Honouring and upholding these principles, members of the TWU community strive for purity of thought and relationship,<sup>21</sup> respectful modesty,<sup>22</sup> personal responsibility for actions taken, and avoidance of contexts where temptation to compromise would be particularly strong.<sup>23</sup>

### **Drugs, Alcohol and Tobacco**

The use of illegal drugs is by definition illicit. The abuse of legal drugs has been shown to be physically and socially destructive, especially in its potential for forming life-destroying addictions. For these reasons, TWU members voluntarily abstain from the use of illegal drugs and the abuse of legal drugs at all times.

The decision whether or not to consume alcohol or use tobacco is more complex. The Bible allows for the enjoyment of alcohol in moderation,<sup>24</sup> but it also strongly warns against drunkenness and addiction, which overpowers wise and reasonable behaviour and hinders personal development.<sup>25</sup> The Bible commends leaders who abstained from, or were not addicted to, alcohol.<sup>26</sup> Alcohol abuse has many long-lasting negative physical, social and academic consequences. The Bible has no direct instructions regarding the use of tobacco, though many biblical principles regarding stewardship of the body offer guidance. Tobacco is clearly hazardous to the health of both users and bystanders. Many people avoid alcohol and/or tobacco as a matter of conscience, personal health, or in response to an addiction. With these concerns in mind, TWU members will exercise careful discretion, sensitivity to others' conscience/principles, moderation, compassion, and mutual responsibility. In addition, TWU strongly discourages participation in events where the primary purpose is the excessive consumption of alcohol.

### **Entertainment**

When considering the myriad of entertainment options available, including print media, television, film, music, video games, the internet, theatre, concerts, social dancing, clubs, sports, recreation, and gambling, TWU expects its members to make personal choices according to biblical priorities, and with careful consideration for the immediate and long-term impact on one's own well-being, the well-being of others, and the well-being

<sup>19</sup> 1 Corinthians 6:18-19.

<sup>20</sup> Genesis 2:24; Exodus 20:14,17; 1 Corinthians 7:2-5; Hebrews 13:4; Proverbs 5:15-19; Matthew 19:4-6.

<sup>21</sup> Matthew 5:27-28; 1 Timothy 5:1-2; 1 Thessalonians 4:3-8; Job 31:1-4; Psalm 101:2-3.

<sup>22</sup> 1 Peter 3:3-4; 1 Timothy 2:9-10.

<sup>23</sup> 1 Corinthians 6:18; 10:13; 2 Timothy 2:22; James 4:7.

<sup>24</sup> Deuteronomy 7:13, 11:14; Psalm 104:15; Proverbs 3:10; Isaiah 25:6; John 2:7-11; 1 Timothy 5:23.

<sup>25</sup> Genesis 9:20-21; Proverbs 20:1; 31:4; Isaiah 5:11; Habakkuk 2:4-5; Ephesians 5:18.

<sup>26</sup> Daniel 1:8, 10:3; Luke 1:15; 1 Timothy 3:3,8; Titus 2:3.

of the University. Entertainment choices should be guided by the pursuit of activities that are edifying, beneficial and constructive, and by a preference for those things that are “true, noble, right, pure, lovely, admirable, excellent, and praiseworthy,”<sup>27</sup> recognizing that truth and beauty appear in many differing forms, may be disguised, and may be seen in different ways by different people.

### ***5. Commitment and Accountability***

This covenant applies to all members of the TWU community, that is, administrators, faculty and staff employed by TWU and its affiliates, and students enrolled at TWU or any affiliate program. Unless specifically stated otherwise, expectations of this covenant apply to both on and off TWU’s campus and extension sites. Sincerely embracing every part of this covenant is a requirement for employment. Employees who sign this covenant also commit themselves to abide by TWU Employment Policies. TWU welcomes all students who qualify for admission, recognizing that not all affirm the theological views that are vital to the University’s Christian identity. Students sign this covenant with the commitment to abide by the expectations contained within the *Community Covenant*, and by campus policies published in the Academic Calendar and Student Handbook.

Ensuring that the integrity of the TWU community is upheld may at times involve taking steps to hold one another accountable to the mutual commitments outlined in this covenant. As a covenant community, all members share this responsibility. The University also provides formal accountability procedures to address actions by community members that represent a disregard for this covenant. These procedures and processes are outlined in TWU’s Student Handbook and Employment Policies and will be enacted by designated representatives of the University as deemed necessary.

#### **By my agreement below I affirm that:**

I have accepted the invitation to be a member of the TWU community with all the mutual benefits and responsibilities that are involved;

I understand that by becoming a member of the TWU community I have also become an ambassador of this community and the ideals it represents;

I have carefully read and considered TWU’s *Community Covenant* and will join in fulfilling its responsibilities while I am a member of the TWU community.

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<sup>27</sup> Philippians 4:8.

This is the 1<sup>st</sup> Affidavit  
of Catherine Taylor in this case  
and was made on 09/04/2014

No. \_\_\_\_\_  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**BETWEEN:**

TREVOR JAMES LOKE

**PETITIONER**

AND

MINISTER OF ADVANCED EDUCATION OF BRITISH COLUMBIA

**RESPONDENT**

**AFFIDAVIT #1 OF CATHERINE TAYLOR**

Janes Freedman Kyle Law Corporation  
340 – 1122 Mainland Street  
Vancouver, BC V6B 5L1  
Telephone: 604-687-0549  
Attention: Karey M. Brooks, File No.: 1202-001



This is Exhibit " F " referred to in the  
affidavit of Tracy Iso  
sworn before me at Vancouver  
this 16 day of January 2015

Sgt. Lab  
A Commissioner for taking Affidavits  
for British Columbia

This is the 1<sup>st</sup> Affidavit  
of Elise Chenier in this case  
and was made on April 14, 2014

No. S-142908  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**BETWEEN:**

TREVOR JAMES LOKE

**PETITIONER**

**AND**

MINISTER OF ADVANCED EDUCATION OF BRITISH COLUMBIA

**RESPONDENT**

**AFFIDAVIT #1 OF ELISE CHENIER**

I, ELISE CHENIER, Associate Professor, of the City of Burnaby, in the Province of British Columbia, MAKE OATH AND SAY AS FOLLOWS:

1. I am a Associate Professor of History, as such have personal knowledge of the matters hereinafter deposed to, except where they are stated to be made on information and belief, and where so stated I believe them to be true.
2. Since 2004 I have been employed as a faculty member in the Department of History at Simon Fraser University, in Burnaby, British Columbia. In 2008, I was promoted to Associate Professor.
3. I completed my Masters of Arts degree in History at Queen's University in 1995. My Master's dissertation was on the subject of some aspects of lesbian history in Ontario. I earned my Ph.D. in History from Queen's University in 2001 on the

history of sexual deviancy as a psychiatric, legal, and criminological problem. That work was nominated for the Canadian Historical Association's John Bullen Prize in Canadian History and the Hannah Millennium History of Medicine Doctoral Thesis Award. I was a Fulbright Scholar at the Kinsey Institute for Research in Sex, Gender and Reproduction.

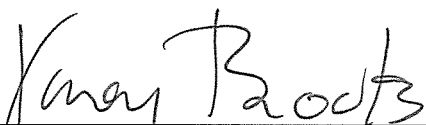
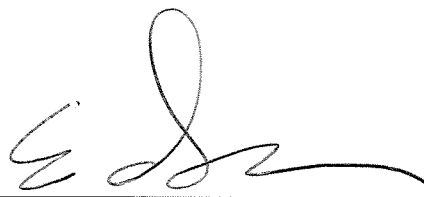
4. Attached as **Exhibit "A"** to my affidavit is a true copy of my curriculum vitae.
5. I have been asked by counsel for the Petitioner to provide an opinion based on my expertise as a historian who specializes in the history of the experienced treatment of gay and lesbian people.
6. I have been provided with the following context informing my report, and make my report in light of this information:
  - a. On or around June 2012, Trinity Western University (TWU) submitted a proposal for consent to establish a law degree program.
  - b. TWU's proposal stated that a requirement of admission to the law degree program would be that students sign TWU's Community Covenant.
  - c. Section 3 of the Community Covenant commits students, among other things, to abstain from "sexual intimacy that violates the sacredness of marriage between a man and a woman".
  - d. Section 5 of the Community Covenant states: "Ensuring that the integrity of the TWU community is upheld may at times involve taking steps to hold one another accountable to the mutual commitments outlined in this covenant. As a covenant community, all members share this responsibility.
  - e. The TWU Student Handbook describes the binding nature of the Community Covenant Agreement and the potential consequences for its violation, which include: miscellaneous consequences (such as apology, community service, fine, loss of services), official warning, conduct accountability, probation, suspension or expulsion.



- f. As a policy of admission, therefore, assume that TWU's Law School requires students to abstain from same-sex intimacy, whether married or not (the "Admission Policy").
  - g. On December 17, 2013 the Minister of Advanced Education granted consent to TWU University to establish a law school.
- 7. I have been asked to answer the following questions based on my expertise as a historian:
  - a. Describe examples of institutions with a public aspect (government, educational or otherwise) that have historically had policies that have
    - i. required individuals to abstain from or hide same-sex intimacy; or
    - ii. excluded disadvantaged groups from participating in those institutions.(the "Policies")
  - b. Have sexual minorities been excluded from institutions in the same way as other disadvantaged groups historically? If not, why not? Are the mechanisms of exclusion different as between sexual minorities and other disadvantaged groups?
  - c. Based on your knowledge of the literature and your research, what are the harmful effects of the Policies on the disadvantaged group and the public (please consider, for example, effects such as access, stigma and representation). For sexual minorities, distinguish whether the effects relate to attending the institution (and staying closeted) or being excluded from the institution.
  - d. For Policies sanctioned by the state, are there additional harmful effects?
  - e. What has become of the Policies? If they have changed, why and how?

- f. Would you infer that TWU's Law School Admission Policy would have the same harmful effects as those described above? Again, please distinguish between effects from attending (and staying closeted) or being excluded from the Law School.
8. My report in response to the questions set out above is attached to my affidavit as **Exhibit "B"**.
9. I certify that I am aware of my duty to assist the court and not to be an advocate for any party. I have made this report in conformity with that duty, and will, if called on to give testimony, give that testimony in conformity with that duty.

SWORN before me at the City of Vancouver, in the Province of British Columbia, this 14<sup>th</sup> day of April, 2014.

  
A Commissioner for taking affidavits  
for British Columbia  
ELISE CHENIER

**Karoy M. Brooks**  
*Barrister & Solicitor*  
340 - 1122 Mainland Street  
Vancouver, BC V6B 5L1  
(604) 687-0549

This is Exhibit A "referred to in  
the affidavit of ELISE CHENIER  
sworn before me at VANCOUVER  
this 14 day of APRIL 2014  
[Signature]  
A Commissioner for taking Affidavits  
for British Columbia

ELISE CHENIER

Department of History, Simon Fraser University, 8888 University Drive,  
Burnaby, British Columbia V5A 1S6 778-782-8573 echenier@gmail.com

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### Professional Employment

2004-. Associate Professor, Department of History, Simon Fraser University. Promoted with tenure 2008.

### Current Research Projects

From Outlaws to Inlaws: Same-Sex Marriage Before 1980

Inside the Continental: Butch and Fem Lesbians in Postwar Ontario, 1955-1975

Bachelors and China Dolls: Sex and Race in Postwar Toronto's Chinatown, 1950-1975

### Education

PhD., History. 1995-2001. Queen's University. "Stranger in Our Midst: Male Sexual 'Deviance' in Postwar Ontario." Defended August 2001. Nominated for the Canadian Historical Association's John Bullen Prize in Canadian History and the Hannah Millennium History of Medicine Doctoral Thesis Award.

Master of Arts, History. 1993-1995. Queen's University. "Tough Ladies and Troublemakers: Toronto's Public Lesbian Community, 1955-1965."

Bachelor of Arts, Honours. 1988-1992. York University.

### Publications

- Books

*Strangers in Our Midst: Sexual Deviancy in Postwar Ontario*. Toronto: University of Toronto Press, 2008. Honourable mention, Canadian Law and Society Book Prize.

- Refereed Articles

"Liberating Marriage: Gay Liberation and Same-Sex Marriage in Early 1970s Canada," in Patrizia Gentile et.al, eds. *Activating Resistance: Remembering and Re-Thinking Sex/Gender Activism*, UBC Press, forthcoming.

"Sex, Intimacy, and Desire Among Men of Chinese Heritage and Women of Non-Asian Heritage in Toronto, 1910 to 1950," forthcoming in *Urban History Review*.

"Oral History and Open Access: Fulfilling the Promise of Democratizing Knowledge," *New American Notes Online Issue #5*, forthcoming.

*Radical History Review* forthcoming

"The Natural Order of Disorder: Pedophilia, Stranger Danger and the Normalising Family," *Sexuality & Culture* (15 October 2011), <http://www.springerlink.com.proxy.lib.sfu.ca/content/415870404238wm73/> DOI: 10.1007/s12119-011-9116-z

"Class, Gender, and the Social Standard: The Montreal Junior League, 1912-1939." *Canadian Historical Review* 90:4 (December 2009): 671-710.

"Hidden from Historians: Preserving Lesbian Oral History in Canada." *Archivaria* 68 (Fall 2009) 247-270.

"CHA Roundtable on the 2008 John A. MacDonald Prize Winner, *Gatekeepers*." *Histoire Sociale/Social History*. Volume 43, Number 85 (Mai-May 2010), 241-257.

"Rethinking Class in Lesbian Bar Culture: Living 'the Gay Life' in Toronto, 1955-1965" in *Left History* 9 (2) (Spring/Summer 2004): 85-118. **Reprinted** in *Rethinking Canada: The Promise of Women's History*, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> eds. Current edition Eds. Adele Perry and Mona Gleason (Toronto: Oxford University Press, 2010).

"The Criminal Sexual Psychopath in Canada: Sex, Psychiatry and the Law at Mid-Century" in *Canadian Bulletin of Medical History* 20:1 (2003): 75-101.

"Seeing Red: Immigrant Women and Sexual Danger in Cold War Canada" in *Atlantis: A Women's Studies Journal*, 24.2 (Spring 2000): 51-60.

- Non-refereed Articles

"The natural order of disorder: paedophilia, incest and the normalising family," in H. Gavin & J. Bent (Eds.), *Sex, drugs and rock & roll: Psychological, legal and cultural examination of sex and sexuality*, (Oxford: Inter-Disciplinary Press Ltd, 2010).

- Chapters in Books

"Segregating Sexualities: The prison 'sex problem' in twentieth century Canada and the United States" in *Isolation: Places and Practices of Exclusion*, eds. Carolyn Strange and Alison Bashford (Routledge, 2003): 71-85.

- Book Reviews

*Out There In Here: Masculinity, Violence and Prisoning*. By Elizabeth Comack. (Halifax & Winnipeg: Fernwood Publishing, 2008). *Oral History Forum d'histoire orale* 30 (2010).

Unspeakable: father-daughter incest in American history. By Lynn Sacco. (Baltimore: The Johns Hopkins University Press, 2009). *Canadian Bulletin of Medical History*. Volume 27, No. 2.

Manly Modern: Masculinity in Postwar Canada. By Chris Dummitt. (Vancouver: University of British Columbia Press, 2007). *Histoire Sociale/Social History*. Volume 42, Number 83 (Mai-May 2009).

Solitary Sex: A Cultural History of Masturbation. By Thomas W. Laqueur (New York: Zone Books, 2003) for *Canadian Bulletin of Medical History*. Volume 23, No. 2.

Disorders of Desire: Sexuality and Gender in Modern American Sexology Revised and Expanded Form. By Janice M. Irvine. Philadelphia: Temple University Press, 2005, for *Archives of Sexual Behaviour*. Volume 37, Number 2 (April 2008).

Don McLeod. *A Brief History of GAY: Canada's First Gay Tabloid, 1964-1966*. Ontario History. 96(1) (Spring 2004): 87-89.

Harry Oosterhuis. *Step-Children of Nature: Krafft-Ebing, Psychiatry and the Making of Sexual Identity*. Left History 8.1 (Spring 2002): 162-164.

Jennifer Terry. *An American Obsession: Science, Medicine and the Place of Homosexuality in Modern Society*. Journal of Canadian History/Annales canadiennes d'histoire XXXVI (August/août 2001): 391-393.

Carolyn Strange. *Toronto's Girl Problem: The Perils and Pleasures of the City, 1880-1930*. Journal of the History of Sexuality 7.4 (April 1997): 613-616.

- **Encyclopedia Entries**

2004. GLBTQ Online Encyclopaedia. Ed. Claude Somers. [www.glbtq.com](http://www.glbtq.com). "Aversion Therapy;" "Kate Bornstein;" "Elizabeth Arden;" "Lesbian Feminism;" "Lesbian Sex Wars."

"Bars, Clubs, and Restaurants," in Marc Stein, ed., *Encyclopedia of Lesbian, Gay, Bisexual, and Transgender History in America*, 3 vols. (New York: Scribners's, 2003), 1: 118-121.

"Prisons, Jails, and Reformatories: Men's," in Marc Stein, ed., *Encyclopedia of Lesbian, Gay, Bisexual, and Transgender History in America*, 3 vols. (New York: Scribners's, 2003), 2: 423-426.

"Sexual Psychopath Law and Policy," in Marc Stein, ed., *Encyclopedia of Lesbian, Gay, Bisexual, and Transgender History in America*, 3 vols. (New York: Scribners's, 2003), 3: 105-109.

## **GRANTS AND AWARDS**

2009. Social Sciences and Humanities Research Council Small Grant. "Inside the Continental: Butch and Fem in Postwar Ontario." (*Internal*, \$6100).

2008 and 2006. SFU/SSHRC North American/International Travel Grant. (*Internal*, \$1500).

- 2007- . Canadian Institutes of Health Research (CIHR) "Open Doors/Closed Ranks: Locating Mental Health After the Asylum." Co-Investigator. (*External*, \$125,000)
2007. SFU University Publication Fund Book Grant. "Strangers in Our Midst: Sexual Deviancy in Postwar Ontario." (*Internal*, \$1500)
2006. Social Sciences and Humanities Research Council Small Grant. "Coming Out: Debutantes in New York and Boston, 1896-1939." (*Internal*, \$5000).
2004. President's Research Grant, "Coming Out: Gender, Race and Heterosocial Spectacle, 1896-1939." (*Internal*, \$10000)
- 2001-03. Social Sciences and Humanities Postdoctoral Fellowship, "The Debutante's Balls: Gender, Race and Heterosocial Spectacle, 1880-1939." *Department of History, McGill University* (*external*, \$75,056).
2003. Bank of Montreal Visiting Scholar, *Department of Women's Studies, University of Ottawa* (*Declined*).
2002. Hannah-Wellcome Trust Travelling Research Fellowship, "The Wolfenden Report," *Wellcome Trust Centre for the History of Medicine, London, England.* (*external*, \$13,189).
- 2000-01. Hannah Institute Scholarship for the History of Medicine, *Queen's University* (*external*, \$14,865).
- 1999-2000. Canada-US Fulbright Scholarship, *Kinsey Institute for Research in Sex, Gender and Reproduction, Indiana University at Bloomington* (*external*, \$15,000).
- 1999-2000. Dorothy Warne Chambers Memorial Graduate Fellowship (*internal*, \$2,500)
- 1999-2000. Canadian Federation of University Women's Margaret Dale Philp Award, *Queen's University* (*external*, \$1,000)
- 1999-2000. Ontario Graduate Scholarship (*external*, \$11,859)
- 1997-1999. Queen's Graduate Award (*internal*, \$4,000/year)
- 1996-99. Social Sciences and Humanities Research Council Scholarship, *Queen's University* (*external*)
- 1993-95. Queen's University Dean's Award, *Queen's University* (*internal*)
- 1993-95. Ontario Graduate Scholarship, *Queen's University* (*external*)

## VISTING SCHOLAR

Fall 2005. McGill Centre for Research and Teaching on Women.

## TEACHING

At Simon Fraser University

Range of Courses Taught from 2004-2013	HIST 204 Canadian Social History HIST 329 Canadian Family History HIST 374W Selected Topics in the History of the Americas, Writing Intensive HIST 425 Gender and History HIST 451-882 Oral History HIST 454 History of Sexuality
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HIST 806 Themes in Canadian History  
HIST 854 Gender and Sexuality

**At other universities**

Instructor. Fall 2003, "Introduction to Women's Studies"; "Joint Honours/Honours Thesis Colloquium"; "Independent Study"; Winter 2004 "Feminisms and Sexualities," McGill University.

Instructor. Winter 2003. "Women in Post-Confederation Canada" McGill University.

Instructor. Summer 2002 & 2003. "Canada Since 1867" McGill University.

Instructor. Summer and Fall 2000-2002. "History and Sexuality" University of Toronto.

Instructor. 1997-8/1998-9. "Topics in Women's History." Queen's University.

**POSTDOCTORAL FELLOW SUPERVISION**

Isabelle Perreault, 2009-2011.

**MASTERS LEVEL SENIOR SUPERVISING**

Star Dieter-Turner, Lisa Lai, enrolled in Fall 2009.

Anne Toews, enrolled in September 2006, defended with distinction 2008.

Rachel Torrie, "Sexing Temporalspatiality: Lesbians in Postwar Rural British Columbia." Enrolled in September 2005 and successfully defended in September 2007.

**SERVING ON A COMMITTEE OF A THESIS OR DISSERTATION**

*PhD field supervisor and dissertation committee member.*

Bonnie Schmidt, field: modern Canada. Thesis: State formation and gender history, comprehensive exams passed, research in progress.

Kathy McKay, field: gender and history. Thesis: Aboriginal history. Research in progress.

*MA thesis committee member*

Ann Poole, successfully defended spring 2007.

Jeremy Milloy, successfully defended fall 2007.

**SUPERVISION OF TEACHING ASSISTANTS**

Selected Topics in the History of the Americas (W)

Fall 2009: Kelly Moffatt, History PhD, Alanna Gammage, History MA.

Spring 2009: Anne Toews, MA, History.

Spring 2008: Laura Ishaguro, MA, Timo Schafer, BA, History.

Canadian Social History

Fall 2007: Laura Ishaguro, MA, History.  
 Canadian Family History  
 Spring 2005: Amrit Mundy, MA, Education.

## **SUPERVISION OF RESEARCH PERSONNEL**

September 2010-December 2010. Ivan Drury, Work-Study Research Assistant, MA, History.  
 January 2009-April 2009. Racan Souiedan, Work-Study Research Assistant, BA Honors, History.  
 May-August, 2009. Haida Arsenault-Antolick, Work-Study Research Assistant, BA.  
 August 2006-January 2007. Robin Folvik, MA. Research Assistant. Funded by SFU PRG.  
 August 2006-January 2007. Rachel Torrie, MA. Research Assistant. Funded by SFU PRG.  
 September 2006-December 2006. Michelle Martin, BA, Work Study Research Assistant.  
 October 2005-December 2005. Charlotte Nunes, MA. Research Assistant, funded by the McGill  
 Centre for Research and Teaching on Women.  
 September 2005-October. Lara Harvester, BA. Research Assistant. Funded by SFU PRG.

## **RESEARCH CONTRACTS**

2010. Museum of Human Rights. Research Report: "Same-Sex Marriage: Radical or Conservative?" and Exhibit Consultation on Same-Sex Marriage in the 1950s, 1960s and 1970s.

2002-3. Musée McCord Museum. Web Tour, 'Straight Laced: Restrictions on Women/À l'ombre de Lui.' This project involved writing text and selecting archival images illustrating a range of taboos and prohibitions encountered by women in Canada between 1867 and 1896.

## **PRESENTATIONS AND CONFERENCE ACTIVITIES**

2010. Invited Speaker. The University of Manitoba Institute for the Humanities LGBTTTQ oral history initiative. "Freak Wedding!": Queer Marriage in the 1950s and 60s"

2010. Edging Forward, Acting Up: Gender and Women's History at the Cutting Edge of Scholarship and Social Action, Vancouver, Canada. With Racan Souiedan. The Archive of Lesbian Oral Testimony (A LOT): Building a Digital Archive

2010. Good Sex, Bad Sex: Sex Law, Crime and Ethics, Prague, Czech Republic. "Toward a New Sexual Ethic: Re-thinking the Sex Offender."

2010. 8th European Social Science History Conference, Ghent, Belgium. "The Archive of Lesbian Testimony (A LOT): Building a Digital Archive."

2010. Invited Panelist. American Historical Association, San Diego, CA. "Taking the Cake: Gay Marriage in Canada and the United States in the 1960s and 70s."

2009. Invited Presenter. UBC International Workshop on Gender and Luxury. "Going Commercial:



Interwar Advertising and the Social Standard.”

2009. Invited Speaker, UBC Okanagan, “From Outlaws to Inlaws: Gay Marriage from the 1950s to the 1970s.”

2009. Invited Workshop discussant, University of British Columbia, “Religion and Sexuality in Britain, 1870-1930.”

2009. Invited Roundtable Discussant. Canadian Historical Association. CHA panel on the 2008 John A. Macdonald Prize-Winner *Gatekeepers* by Franca Iacovetta.

2009. Invited Roundtable Discussant. Canadian Historical Association, Canadian Committee on Women’s History Roundtable on Gender History.

2009. American Historical Association, New York, NY. “The Mad and the Bad: The Origins of Sex Offender Treatment.”

2008. European Social Sciences History Conference, Lisbon, Portugal. “Freak Wedding!” Lesbian Marriage as Pleasure Practice.”

2007. American Association for the History of Medicine, Montreal, Qc.. “The Mad and the Bad: Criminal Sexual Psychopathy and the Treatment of Sex Offenders.”

2007. Invited Speaker, Northern Ontario History of Health & Medicine Group, Lakehead University. “History of Sexual Deviancy.”

2006. Canadian Historical Association, York University, Toronto. “As Others See Us: Elite Femininity and the Montreal Junior League, 1912-1939.”

2006. Vancouver Museum, Vancouver, British Columbia. “ ‘Freak Wedding!’ Lesbian Marriage in the 1950s.”

2006. Colloquium, Principal Organizer. Sex at SFU: A One Day Colloquium. Conference Organizer: An interdisciplinary colloquium for SFU scholars in sexuality studies, Halpern Centre, Burnaby campus.

2006. Lesbian Lives XII ‘Historicising the Lesbian,’ University College, Dublin. “ ‘Freak Wedding!’: Lesbian Marriage and Class Politics in 1950s Toronto.”

2006. National Women’s Studies Association Annual Conference, Oakland, California. “Unpacking the Moral Panic: Women, Hysteria, and the Battle against Sexual Deviancy in 1950s Toronto.”

2005. IASSCS Sexual Rights and Moral Panics, San Francisco State University and Law’s Empire, Harrison Hot Springs, British Columbia. “Unpacking the Moral Panic: Women, Hysteria and the Battle against Sex Deviancy in 1950s Toronto.”

2005. Invited Commentator, *Labouring Feminism and Feminist Working-Class History in North America and Beyond*, University of Toronto.

2003. McGill Centre for Research and Teaching on Women. "Occupied Territories: Transgender Issues in Health and Science."

2001. Montreal History Group. "Surveying Sex: The Royal Commission on the Criminal Law Relating to Criminal Sexual Psychopaths."

2000. The Future of the Queer Past, First International Conference, University of Chicago. "All Cats are Grey in the Dark: Sex, Power and Gender in Prison, 1950-1970."

#### MANUSCRIPT REVIEWS FOR SCHOLARLY PRESSES

2008. "Sex Crime Panic: The Slasher Killings in Windsor, Ontario, 1945-1946" for Wayne State University Press.

2007. "Negotiating Responsibility: Law, Medicine, and Murder in Canada, 1920-1950" for University of British Columbia Press.

#### ARTICLE REVIEWS FOR PROFESSIONAL JOURNALS

2011. *Journal of the History of Behavioral Sciences*.

2009. *Journal of Canadian Studies*.

2008, 2009, 2007. *Atlantis: A Women's Studies Journal/Revue D'Etudes Sur La Femme*.

2007. *Gender and History*.

2007. *Radical History Review*.

2006. *Left History*.

2006. *BC Studies*.

#### GRANT REVIEWS

2010. Canadian Committee for Women's History Barbara Roberts Memorial Fund

2008-9. University of Waterloo

2008. Canadian Institute for Health Research

2001-present. Michael Lynch Award for Queer History

#### ACTIVE SERVICE TO SIMON FRASER UNIVERSITY DEPARTMENT OF HISTORY

August 2008-August 2010 . Chair of Graduate Studies Program.

September 2007-present. Working Environment Committee.

September 2006-May 2007. Member of Appointments Committee.

Fall 2007. Member, Latin America search committee.

October 2004-March 2005. Member, Canadian history search committee.

## **SERVICE TO THE WIDER ACADEMIC COMMUNITY**

2009-. H-Histsex Editor. List Editor for the H-Net listserv on the history of sexuality.

1996-2009. Co-founder and executive committee member of the Canadian Committee for the History of Sexuality in Canada, a sub-committee of the Canadian Historical Association.  
<http://www.cha-shc.ca/cchs/index.htm>

2007-2009. Canadian Committee for Women's History Regional Representative.

October 2006 – present. Member of the Editorial Advisory Board, H-Canada, part of the H-Net (Humanities and Social Sciences) online network.

May 2006 - 2009 British Columbia Regional Representative, Canadian Committee for Women's History.

Fall 2007- present. Board member, BC Women's History Network.

### **Conference Organizing Committee member for:**

2009-present. Principal Organizer, We Demand: 40 years of making queer history. Vancouver, Coast Plaza Hotel.

2008- present. European Social Science History Conference, sexuality stream organizing committee member.

2009-2010. Canadian Committee on Women's History. Edging Forward, Acting Up: Women's and Gender History in the New Millennium, Simon Fraser University. Program Committee Member.

2008 Pacific Northwest Labour History Association and Labor and Working Class History Association Conference, SFU Harbour Centre.

2008 Western Women's History Association, UBC.

2008 BC Women's History Network, Victoria, BC.

## **PROFESSIONAL MEMBERSHIPS**

Member: Canadian Historical Association; Canadian Committee on Women's History; Canadian Committee on the History of Sexuality, Canadian Society for the History of Medicine; American Historical Association's Committee on Lesbian and Gay History.

Report of Elise Chenier  
Dated: April 14, 2014

1. **Describe examples of institutions with a public aspect (government, educational or otherwise) that have historically had policies that have:**
  - a. **required individuals to abstain from or hide same-sex intimacy; or**
  - b. **excluded disadvantaged groups from participating in those institutions.**

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**(the "Policies")**

In the second half of the twentieth century, policies explicitly barring lesbians and gays from employment in sectors such as the civil service and education, from participation in certain types of institutions such as the military, and from entry into the country, were for the first time introduced in Canada and the United States. This is because in the 1930s, 40s, and 50s lesbians and gays were for the first time perceived to be a threat to children, to political stability, and to the future of the nation.

Homosexuals, especially male homosexuals, were perceived to be a threat to children because it was believed that their desire for sexual contact with the same sex was uncontrollable, insatiable, and indiscriminate. It was also argued that because they could not reproduce, they were forced to recruit young, impressionable boys into their "deviant underworld." Male homosexuals were also seen as a danger to female children. Little to no distinction was made between sexual assaults against female children and against male youth; in the public mind, perpetrators of such crimes were part of a mass of perverts roaming the city streets and victimizing children. This perception was created by mental health experts, borrowed by the police, and popularized by the news media as a way to explain an apparent rise of sexual assaults against children. I documented this phenomenon as it unfolded in Ontario in my book *Strangers In Our Midst: Sexual Deviancy in Ontario*.<sup>i</sup> Scholars have documented the same phenomenon in the United States and in Australia<sup>ii</sup> with additional studies providing detailed accounts of the linking of gay men with pedophilia in Florida, Idaho, and elsewhere.<sup>iii</sup> This misperception persists to the present day despite extensive research discounting this link.<sup>iv</sup>

Because of this perception, educational institutions across Canada and the United States fired teachers suspected of being homosexual, and those who were charged with any type of crime that led one to suspect one was a homosexual, such as being arrested as a found-in at a public restaurant, coffeehouse, or bar known to be frequented by homosexuals, or for engaging in any type of sexual act with a person of the same sex. Arrests of this kind were often reported in the press, ostensibly to shame those arrested and to deter those who might seek out sex with people of the same sex. Although increased sales was the likely motive, it was a very effective shaming mechanism. Historians have discovered cases of men committing suicide following such arrests.

Thousands of gay men and lesbians have recounted feelings of fear and shame that

defined their day-to-day experience as a result of these social conditions.<sup>v</sup> The prevalence of drug and alcohol addiction and suicidal ideation among this population as a response to these conditions, presently termed “minority stress” (see below), is evident in the oral histories I and other oral historians have collected with lesbians and gays who lived through this era.

It is worth noting that only teachers were barred from educational institutions, including universities. This is because it was assumed that homosexual teachers threatened the sexual and physical safety of students due to their “deviant” sexual nature. Students were not perceived to be a threat to other students or to teachers and no similar policies applied to them. They were, however, quite likely to be sent to a cleric and increasingly to a medical expert for treatment if they showed signs of homosexuality, particularly during high school when parents and teachers were most on the watch for signs of what was considered deviant behaviour. In the 1950s and 60s failing or refusing to comply with masculine or feminine gender norms, such as wearing the clothes considered proper to one’s sex (in contrast to the masculine clothes women commonly wore just a few years earlier during World War Two), assuming mannerisms deemed appropriate to one’s sex, aspiring to a future appropriate to one’s sex, and steering one’s interest away from same-sex friendships to opposite sex intimacies were just as likely to be seen as evidence of homosexuality as were same-sex sexual acts themselves.<sup>vi</sup>

The emergence of the homosexual as a danger to children, to political stability and the future of the nation was largely the consequence of the characterization of homosexuality as a mental illness. Long considered a sin and a crime, since the 1880s European specialists have argued that it was a disorder of nature. By the 1920s active study of homosexuality as a somatic and psychological aberration had come to the United States and Canada. Homosexuality was not actually listed as a mental disorder in the American Psychiatric Association’s *Diagnostic Statistical Manual* until 1952. Historians agree that the United States’ military testing of new recruits for signs of homosexuality was instrumental in embedding in popular culture the notion that homosexuality was a mental illness.<sup>vii</sup>

Also instrumental was the baby boom. Parents in Canada and the United States expressed deep concern for the sexual safety of children and put the matter on the public agenda. Local police forces responded to reported assaults by conducting mass arrests of men in bars frequented by homosexuals. The Chicago police force even had a name for it: “fruit picking.” Announcements to the press of mass arrests of “perverts” gave the appearance that local police were taking effective action against the menace of pedophilia. It also entrenched in the public imagination a link between gay men and sexual violence against children.<sup>viii</sup>

The medical experts who warned about sexual deviancy called for sympathy and understanding toward “these poor unfortunates.” They argued that as victims of mental illness homosexuals needed treatment, not imprisonment. Yet in the 1950s sentiment was as likely to be hateful and violent as it was compassionate and understanding. A major contributing factory to the moral panic over homosexuality that swept Canada and the United States in the 1950s and 60s can be traced back to a single individual: Joseph

McCarthy. It was his goal to bring down the Democratic government which at the time was swept up in the cold war with the USSR. Fears that government secrets might be sold to Soviet agents were set alight in Canada when Igor Gouzenko approached the Canadian government and revealed that he was providing illegally obtained information to his government. McCarthy proceeded to accuse the Democrats of having homosexual men in its employ. As homosexuals, McCarthy argued, gay men were susceptible to blackmail by Soviet agents. In addition to being associated with pedophilia, in the 1950s and 60s gay men, and to a lesser extent women, were associated with the threat of communism and political instability. To be gay or lesbian was to jeopardize national security and the health of the next generation.<sup>ix</sup>

Without any evidence to support him, McCarthy convinced the American public that homosexuals were a threat to national security and forced the U.S. government to launch a campaign to rid itself of any homosexual employees. Called “the lavender scare” and “the McCarthy witch hunt” by historians, the experience of hostile questioning and near constant surveillance left a deep mark on lesbians, gays, and those merely suspected of being homosexual.<sup>x</sup> For gay and lesbian civil servants, explain historian David K. Johnson, the governmental push to drive out homosexuals “represented a real threat to their economic, social and psychological well-being... Washington’s gay community was permeated with fear.”<sup>xi</sup>

Because of our linked security interests, Canada followed in America’s footsteps. Thousands of lesbians and gays were pushed out of the military and civil service. Some left on their own will for fear of being discovered and rendered unemployable as a result, others were forced out. This campaign continued well into the 1970s, and had long-term effects on those individuals “purged” from the military and civil service. Historians Patrizia Gentile and Gay Kinsman document the Canadian experience in their book *The Canadian War on Queers*. A diary entry by Harold, who was purged from the Royal Canadian Navy in the early 1960s, illustrates the impact of being removed from an institution in which one is deeply invested simply because of one’s sexual orientation:

Until recently I was a trusted, respected citizen. I held a position of responsibility and had spent years working hard in what I believed – and still do – was a worthwhile, if not highly remunerative, organization. Then one day, the culmination of months of severe mental stress, I was dismissed ... I have undergone an experience which has destroyed the efforts of my life to date... I have been deprived of two basic human needs – a reason for living and a degree of self-confidence... At an age when I had commented to reap the benefit of years of conscientious and highly commented effort I have been removed from my position and world because... my superiors discovered I am a homosexual.<sup>xii</sup>

So anxious was the Canadian government about rooting out homosexuals that by the early 1970s it had amassed over 9,000 files on suspected homosexuals, many of whom had no direct relationship to the military or civil service. It also hired a Carleton University psychologist F.R. Wake to invent a contraption that could detect homosexuality. (Dubbed “the fruit machine,” it was never actually used because Wake could not recruit enough RCMP officers to serve as a control group.) In the early 1950s, the U.S. and shortly thereafter the Canadian government also added homosexuality as a category of exclusion for entering the country. A previous criminal conviction for a crime

of a homosexual nature was not required to bar admittance.

The notion that homosexuals were undesirable, and that firing them for homosexuality was an acceptable practice also shaped the education system in this period. Official and unofficial policies barring people suspected to be lesbian or gay were put in place, and remained in place until they were successfully challenged in the 1980s and after, however the practice continues in some American schools and in private Canadian schools. As historian Craig M. Loftin shows, these policies did not stop all lesbians and gays from pursuing their chosen career, but they did force them to live in the closet and in fear of being discovered.<sup>xiii</sup> “Too much caution meant isolation from gay life, which could cause despair and loneliness,” notes Loftin. “Too much boldness, however, could result in excruciating anxiety over the fear of discovery or possibly a wrecked career.”

As Harold showed above, losing one’s job and being outed as a homosexual had far-reaching and devastating consequences. Fear of and hostility toward homosexuality drove more and more people into the closet, pushed more people into therapy in the hopes of curing their “illness,” and legitimized acts of violence by civilians and the police toward lesbians and gays.

The military and civil service, and schools were only two of the institutions that barred homosexuals from employment, membership, and participation. Anyone in the public or private sector could dismiss a person with impunity on the grounds that they were homosexual.<sup>xiv</sup> This flew in the face of the rise of an anti-discrimination politic that emerged after World War Two, a matter I address in the next section.

## **2. Have sexual minorities been excluded from institutions in the same way as other disadvantaged groups historically? If not, why not? Are the mechanisms of exclusion different as between sexual minorities and other disadvantaged groups?**

Sexual minorities have been excluded from institutions in much the same way as have other social groups deemed undesirable. The mechanisms of exclusion are also very similar and include social ostracism, harassment and abuse (both psychological and physical), denial of services, housing, and employment, denial of opportunity, and criminalization and higher rates of incarceration. There are two important differences, however. First, overt and targeted discrimination against lesbians and gays emerged only after World War Two at the very moment when the international community, led by the United Nations and supported by Canada and the United States, issued a Universal Declaration of Human Rights which held that “All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood,” and that “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” This did not apply to lesbians and gays because whereas the United Nations repudiated scientific racism which justified some of the most egregious forms of discrimination and prejudice, homosexuality was at this time considered a mental illness.

Secondly, whereas most other groups who experience systemic discrimination – women, racial and ethnic minorities, the physically disabled, and so on -- lesbians, gays, and bisexuals are able to hide their difference by conforming with heterosocial behavioral codes and by not disclosing their sexual orientation. The ability to hide, however, produces a fear of being discovered. Those who wanted to be rid of homosexuals had to uncover them. Uncovering homosexuals involved developing forms of surveillance. It also created an atmosphere of constant fear and anxiety for lesbians, gays and bisexuals.

Laws that once seemed normal and natural, and even sanctioned by the bible, are now seen as unethical and dangerous. For example, Canada once permitted slavery. It barred entry to people of Chinese descent between 1923 and 1947. It allowed universities to place caps on the number of people of Jewish heritage admitted each year.<sup>xv</sup> These forms of discrimination fell out of favour after World War Two when the extent of the racial policies of the Third Reich became well known. In Canada and in some parts of the United States, public sentiment favored the United Nation's call for an international human rights code and for an end to racial and ethnic tension.<sup>xvi</sup>

The attack on racism emboldened and empowered the civil rights movement in the United States. They attacked prejudicial laws, beginning most famously with laws that gave preferential treatment to whites in public transportation systems and in restaurants and other service industries. They also challenged discrimination in housing, education, and employment.

In the 1970s lesbians and gays in Canada and the United States adopted the same political strategy to challenge anti-gay laws and practices. They characterized themselves as members of a minority who were unfairly discriminated against because of prejudicial attitudes. As a political community, since the 1960s lesbians, gays and bisexuals have been similar to ethnic and racial minority groups.

Lesbians, gays and bisexuals were different, however, in that much of the discrimination against and prejudice toward them was the result of the American Psychiatric Association's (APA) labeling homosexuality a mental illness. In 1974 the APA responded to pressure to 'declassify' homosexuality as a mental illness. Following from this, lesbians and gays sought protection from discrimination at the local, state, provincial, and national levels. In Canada, this meant seeking protection from discrimination on the basis of sexual orientation at provincial human rights boards. In the United States, activists pushed for local city ordinances that would prohibit discrimination in housing, accommodations and employment. As the movement grew, organized efforts to challenge discrimination in all spheres of public and private life expanded. Over the past twenty years lesbians and gays have done more than overturn the laws that were introduced in the 1950s. They have also seen the elimination of sex crime laws in use since the 1700s to punish participants in same-sex sexual activity. Presently 94 member states support the inclusion of lesbians and gays in the United Nations Human Rights Code.

Lesbians, gays and bisexuals experienced discrimination in much the same way as women and people of colour, but a) they have always had the option of attempting to hide



their sexual orientation, and b) the postwar movement to eradicate racism and other forms of discrimination did not include discrimination from sexual orientation.

**3. Based on your knowledge of the literature and your research, what are the harmful effects of the Policies on the disadvantaged group and the public (please consider, for example, effects such as access, stigma and representation). For sexual minorities, distinguish whether the effects relate to attending the institution (and staying closeted) or being excluded from the institution.**

Based on decades of historical research, it is clear that a policy that prohibits people who engage in same-sex sexual activity from membership, employment, or participation has two principal effects for lesbians, gays and bisexuals: they will either be deterred from seeking employment, membership or from participating, or, they will pursue the opportunity and hide their sexual orientation. In both instances one is harmed: in the first instance by exclusion and loss of opportunity, and in the second by being forced to hide a part of oneself, and to live in a state of fear and anxiety that one's sexual orientation will be discovered. The results of these conditions have been well documented by historians and quantified psychologists.

Historians have shown that throughout the twentieth century lesbians and gays have relied a combination of identity disclosure and concealment strategies "that address fear of discrimination on one hand and a need for self-integrity on the other." Contemporary social scientists find this to still be the case in the present day, and have shown that, as in the past, they "range from passing, which involves lying to be seen as heterosexual; covering, which involves censoring clues about one's self so that LGB identity is concealed; being implicitly out, which involves telling the truth without using explicit language that discloses one's sexual identity; and being explicitly out." Meyers 681-2. These strategies, as Meyers shows, have detrimental effects.

Concealment of one's homosexuality is an important source of stress for gay men and lesbians... [I]ndividuals in such a position must constantly monitor their behavior in all circumstances: how one dresses, speaks, walks, and talks become constant sources of possible discovery. One must limit one's friends, one's interests, and one's expression, for fear that one might be found guilty by association... The individual who must hide of necessity learns to interact on the basis of deceit governed by fear of discovery... Each successive act of deception, each moment of monitoring which is unconscious and automatic for others, serves to reinforce the belief in one's difference and inferiority. (Meyers, 681)

Today, as in the 1950s and 60s, fear of discrimination and concealment of sexual orientation has adverse psychological, health, and job-related outcomes (Waldo, 1999).

As Meyer points out in his 2003 article on minority stress, the basis of healthy living is a sense of harmony with one's environment. Social stress occurs when there is a conflict or mismatch between an individual and her or his experience of society, when one is deprived of a sense of harmony. "When the individual is a member of a stigmatized minority group," he explains, "the disharmony between the individual and the dominant

culture can be onerous and the resultant stress significant. ...American history is rife with narratives recounting the ill effects of prejudice toward members of minority groups and of their struggles to gain freedom and acceptance.” Such stressful conditions occur in particular for groups defined by race/ethnicity and gender.

The following excerpts provide an explanation of the concept of minority stress as applied to lesbian, gays and bisexuals:

In developing the concept of minority stress, researchers’ underlying assumptions have been that minority stress is (a) unique—that is, minority stress is additive to general stressors that are experienced by all people, and therefore, stigmatized people are required an adaptation effort above that required of similar others who are not stigmatized; (b) chronic—that is, minority stress is related to relatively stable underlying social and cultural structures; and (c) socially based—that is, it stems from social processes, institutions, and structures beyond the individual rather than individual events or conditions that characterize general stressors or biological, genetic, or other nonsocial characteristics of the person or the group. (676)

Meyers identifies three processes of minority stress in the experience of lesbians and gays:

- a) external, objective stressful events and conditions (chronic and acute),
- b) expectations of such events and the vigilance this expectation requires, and
- c) the internalization of negative societal attitudes.

Other work, in particular psychological research in the area of disclosure, has suggested that at least one more stress process is important: concealment of one’s sexual orientation. Hiding of sexual orientation can be seen as a proximal stressor because its stress effect is thought to come about through internal psychological (including psychoneuroimmunological) processes (676).

Meyers’ 2003 study indicates that the core stressors for lesbians, gays and bisexuals are anti-gay violence, prejudice, and discrimination. He found that LBG people are two times more likely to experience a major life event related to prejudice, such as losing a job, than are heterosexuals. They are more likely to experience sexual assault, physical assault, robbery, and property crime. LGB people also experience poorer health. They have lower immune systems and suffer from greater incidence of asthma and arthritis, issues that may be attributed to minority stress. There is also a significantly higher rate of suicide ideation and attempt. In the past, such phenomena were regarded as a consequence of the homosexual’s mental disease. New research on mental health and addictions among lesbians and gays see differences between this population and heterosexuals as the result of external, not internal, forces, namely, anti-gay sentiment and homophobic practices.

Meyer’s minority stress model has been proven as a successful tool for better understanding mental health issues amongst lesbians and gays. His initial findings have been confirmed and expanded upon as recently as spring 2014 in a study published by the

*American Journal of Orthopsychiatry* which noted depression, post-traumatic stress symptoms, increased anxiety and anger as distinctly elevated amongst LGB peoples as compared to heterosexuals.<sup>xvii</sup> They also advanced Meyer's work by showing how the incidence of stressors is elevated in direct proportion to other forms of marginalization. For example, people of colour, women, and women of colour have even higher rates of compromised psychological and physical health than do white men. Qualitative historical data for the 1950s and 60s supports this data, illustrating that despite the dramatic changes in our legal and popular culture, experiences of marginalization and minority stress persist.<sup>xviii</sup>

Historical research shows the effects of discrimination against lesbians and gays, and the strategies used to navigate homophobia have been at the centre of the lesbian and gay experience since at least the 1940s.<sup>xix</sup> Using oral histories, diaries, letters, and other sources, historians have documented how lesbians and gays survived years of homophobia in their family circle, the workplace, and the wider community. Many were forced by parents to enter treatment for their "disorder," others were forced into treatment by the justice system, and still others sought it out voluntarily, so convinced were they by claims that homosexual desire was a mental illness.

Based on the history of oppression and discrimination against lesbians, gays and bisexuals, it is reasonable to assume that as long as lesbians, gays and bisexuals are targets of prejudice and discrimination, minority stress will continue to mark their everyday experiences. In other words, it is reasonable to anticipate that the need to conceal one's identity and sexual practices in some circumstances will have adverse psychological and health outcomes.

Historians and contemporary social scientists have also documented how being in the company of other lesbians and gays is an important counterweight against the message of inferiority one experiences in a homophobic world. Historians have long understood the vital necessity of, as lesbians and gays themselves put it, "finding others like yourself." It explains why so many lesbians and gays were willing to spend their free time in some of the most dingy and dangerous bars in their city. It was once believed that homosexuals were actually attracted to such places, but historians have shown that because of the stigma attached to same-sex desire, lesbians and gays had limited choice as to where they could mingle and socialize. They were forced to congregate in the only places that would allow them in, and these places tended to be on the social and economic margins of mainstream society. So necessary was social connection to break the isolation that many, but certainly not all, lesbians and gays were willing to tolerate the worst conditions.

One social alternative was sports teams. On the baseball diamond and basketball court, single-sex gatherings were less suspect, and lesbians and gays were free to enjoy time in each other's company with minimal risk of raising suspicions about their sexual orientation. These occasions were critical for promoting positive self-perception, a fact that has been validated by more recent psychological studies illustrating the positive health effects of belonging to such groups and organizations, and even for participating in social and political organizations that challenge homophobia.<sup>xx</sup> These studies show that to be in a community that denies full humanity to lesbians and gays diminishes one's self-

perception and endangers mental and physical health.

Finding community, however, is different for lesbians, gays and bisexuals than it is for other minority groups. Patrick W. Corrigan and Alicia K. Matthews explain,

members of stigmatized ethnic minority groups are born into families and communities who typically bear the same [stigmatizing] marks, are aware of potential prejudice that results from the stigma, and provide guidance for how to respond to prejudice. Conversely, the life experiences that result in someone calling themselves gay or mentally ill typically occur in adolescence and young adulthood rather than at birth. Consequently, sexual minorities and individuals with mental illness often undergo a developmental process that is different from their primary care providers and larger support systems. At the worst, family members and others ostracize the person who is struggling with either their gay or mentally ill identity. More commonly, parents and other mentors are unable to provide any clarity to their experiences.<sup>xxi</sup>

In other words, it is through social and political contact with other lesbians and gays that survival and coping skills are learned. These skills are necessary to manage the negative effects of discrimination on the basis of sexual orientation. When LGB people conceal their sexual orientation, writes Meyers, “they are not likely to access formal and informal support resources in the LGB [lesbian, gay and bisexual] community. Thus, in concealing their sexual orientation LGB people suffer from the health-impairing properties of concealment and lose the ameliorative self-protective effects of being “out.”

Since we know that being in the company of other lesbians and gays affirms one’s sense of dignity, a critical component of good mental health, we can better appreciate how, if fulfilling this need endangers the individual engaged in an organization or institution that discriminates against lesbians, gays, and bisexuals, harm is caused to the individual. The need to hide one’s sexual orientation means that one is cut off from possible systems of support, such as gay and lesbian self-help and support groups. One would also be inclined to avoid places where a positive self-identity takes shape, such as lesbian- and gay-positive spaces, including cultural, social, and sports organizations and events geared toward lesbian and gay audiences and participants. Again, research by psychologists affirms what historians have known for some time: “group identities are essential for individual emotional functioning, as they address conflicting needs for individuation and affiliation” (Brewer, 1991). The risk of being in an environment in which group identity must be denied is that there are few to no opportunities for “individuation and affiliation” as a lesbian, gay, or bisexual person. Even when discrete networks of lesbians and gays form, as historians have shown they have in the military and other institutions, many will choose to avoid them for fear of being found out. While forming discrete networks may be a positive adaption to a hostile environment, it is far from an ideal circumstance and in no way approximates the guarantee to freedom from discrimination based on sexual orientation that gay and lesbian rights activists began fighting for in the mid-1970s and which has since come to be considered in Canada and elsewhere as a basic human right.

Safeguarding human rights requires citizens to actively unlearn prejudicial and discriminatory attitudes. The Canadian state under the leadership of Pierre Trudeau forged an activist path in this regard. First, he responded to discrimination against

Franco-Canadians by funding educational program and services to make the French language, and by extension Franco-Canadians, more integrated across Canada. These measures have dramatically decreased the level of anti-Quebec and anti-French sentiment in Canada. The Government of Canada's 1971 Statement on Multiculturalism opened the door even further. More than prohibiting discrimination, it promoted through cultural events, educational initiatives, and grants targeting minority populations, a society in which cultural differences came to be seen as an asset, not a hindrance, to strong communities and a strong nation. Over the past forty years the Canadian state has played a leading role in reshaping discriminatory and prejudicial attitudes amongst citizens. The 1995 inclusion of sexual orientation into the Charter guaranteed the right of Canadians of any sexual orientation to live without discrimination. This key event enabled more and more lesbians, gay men, and bisexuals to come out. As Patrick W. Corrigan and Alicia K. Matthews found, "contact between homosexuals and heterosexuals diminished stigmatizing attitudes among heterosexuals. Coming out (one way to facilitate contact) has significant value for diminishing the stigma experienced by gay men and lesbians."<sup>xxii</sup> Therefore, it was not the state alone that enabled the change in social attitudes, but rather the conditions of possibility the state created. The state, in short, can and has played a key role in reducing discrimination and prejudice against minority populations, from the Québécois, to the non-white immigrant, to lesbians, gays and bisexuals.

#### **4. For Policies sanctioned by the state, are there additional harmful effects?**

As we have seen, the state can and has played a determinative role in establishing what is and is not permissible in a society in part by legitimizing the human dignity of marginalized groups, and by giving those groups legal and other tools to challenge discrimination and prejudice. Of course, not everyone adheres to the Charter, not even other state agencies. Commission Wally Oppal's report of the Missing Women Commission of Inquiry, for example, concluded that the high number of murdered and missing women in British Columbia, and the failure on the part of the police to take these cases seriously, was due to pervasive racism toward aboriginal women in society at large and in the police force.<sup>xxiii</sup> The commission's public findings will not end racism toward aboriginal women, but it does send a clear message that such discrimination is not acceptable in our society, a message that still needs to be heard despite existing Charter guarantees. As a governmental report, *Forsaken* is a powerful tool for those seeking to fight institutional inequality. It also validates the experience and empowers those who are victims of institutional racism and sexism by acknowledging, in many cases for the first time, that what they have experienced is morally, ethically, and legally wrong, and no fault of their own. Such words can be powerful ameliorators of minority stress.

History has shown that the state can perpetuate discrimination and prejudice, and it can also combat it. State policies do not alone produce or end prejudice and racism, but from an historical point of view it is clear that states play a pivotal role in both cases. The additional harm caused by the state sanctioning of discriminatory policies is that it legitimizes those policies. By legitimizing acts of discrimination, it sends a clear signal to its citizens that discrimination is acceptable and justifiable, and will be defended.

#### **5. What has become of the Policies? If they have changed, why and how?**

Canadian state policies that excluded lesbians and gays from the civil service and armed forces have been eliminated. The campaign to root out homosexuals from the civil service died down in the early 1970s, but the differential treatment of lesbians and gays on the grounds that they constituted a security risk continued into the 1990s. Other policy changes have come about as the result of legal challenges launched by lesbians and gays themselves. This includes the 1992 case that successfully challenged the military's policy regarding the exclusion of lesbians and gays<sup>xxiv</sup>, and the 1995 and subsequent Charter challenges that resulted in full legal protection for Canadians from discrimination on the basis of sexual orientation.<sup>xxv</sup>

Similar developments have been underway in the United States, although at a much slower pace. The Democratic Party has been under considerable pressure to represent the interests of lesbians and gays since the early 1970s when lesbians and gays organized on the party's behalf. Political expediency kept Democratic leaders from taking any concrete steps in this direction until President Bill Clinton's electoral victory. Pressured to change the military's anti-gay policy, he modified it with the controversial "Don't Ask, Don't Tell" policy, which for the first time made staying in the closet official government policy. This policy was finally dismantled and the exclusion of gays and lesbians ended in 2011. The struggles for same-sex marriage began in 1987 when the Lesbian and Gay March on Washington made it one of their key demands. Because in the United States it is politicians who are responsible for changing, or not changing, laws regulating marriage, the process has been much more fraught than it was in Canada where the matter was settled by the Supreme Court.

In both cases, these changes in policy have been the result of 1) activism on the part of lesbians, gays and bisexuals and their allies, and 2) changing social attitudes toward lesbians and gays.<sup>xxvi</sup> Changes in social attitudes are the result of greater exposure to 'out' lesbians and gays both in face-to-face communications and in popular culture, and decades of educational and informational campaigns organized and launched by lesbians and gays.

**6. Would you infer that TWU's Law School Admission Policy would have the same harmful effects as those described above? Again, please distinguish between inferred effects from attending (and staying closeted) or being excluded from the Law School.**

TWU's Law School Admission Policy does not bar lesbians and gays from admission to the school. However, because it is one's desire for same-sex sexual partners that makes one lesbian or gay, one can say that the admission policy does in fact discriminate against lesbians and gays as a group. One could argue that people who engage in other types of prohibited sexual behaviour are equally discriminated against by the admission policy, such as people who masturbate, people who consume pornography, and people who have heterosexual sex with someone to whom they are not married. There are important differences between these people and lesbians and gays that reveal the incommensurability of these forms of discrimination. First, people who masturbate, people who consume pornography, and people who have sex with an opposite sex partner to whom they are not married are not considered a distinct social type or members of a

social group; they do not exist in political society as a group that has experienced and continues to experience discrimination based on their sexual orientation; and they have not been subject to overt discrimination because of their sexual orientation. They are not, therefore, a socially, economically, or politically vulnerable population or group. Lesbians and gays, on the other hand, have in Canada status as a minority group akin to a racial minority group. This has been formally recognized by the Canadian state since 1992.

Because lesbians and gays are the only minority group who must look beyond their family to find the support of people who have experienced the same kind of marginalization and discrimination, they are also distinct from other minority groups. Such support is found in lesbian and gay support groups, in the lesbian and gay media, and in lesbian and gay culture. Even though participating in any of these activities is not to participate in sex, to seek out community and support through these avenues would involve a significant risk, the risk of being discovered as gay. Because homosexuality violates the admissions policy, to be discovered as gay could result in expulsion. Expulsion would have a deleterious effect on the student. They would suffer significant financial losses, as well as the shame attached to expulsion. Each of these increases the likelihood of suffering stress, anxiety, depression, and may even lead to suicidal ideation, attempts, and death. Being forced to be in the closet has real and lasting physical, emotional and psychological effects that have contributed to a long history of unnecessary suffering among lesbians, gays and bisexuals.

Choosing not to attend such a school would protect an individual from the damaging effects of living in the closet and the possible trauma of being expelled. A public health campaign to discourage lesbians and gays from attending TWU would be a partial solution in that it would uphold the state's position regarding anti-discrimination and affirm the right of lesbians and gays to full equality and dignity. However, that TWU bars non-celibate lesbians and gays from accessing its allocation of seats in law school can be compared to Queen's University's pre-1950s cap on the number of Jewish students annually admitted. Such a policy went hand in hand with the government's own policies regarding immigration and refugees. What is historically distinct in this case is how TWU policy is entirely out of step with current governmental policies. TWU is instituting and extending policies that once existed but have long been ruled a violation of the rights of Canadian citizens. This policy is in this sense regressive in that it moves backward to a past in which exclusion based on sexual orientation was regarded as legitimate and even necessary. In Canada, the Canadian state and the provinces have been moving in the opposite direction, guaranteeing lesbian and gay Canadian's equality under the law. This reflects public opinion. Presently the majority of Canadians support lesbian and gay equality.

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<sup>i</sup> Elise Chenier, *Strangers in Our Midst: Sexual Deviance in Postwar Ontario* (Toronto: University of Toronto Press, 2008).

<sup>ii</sup> Fred Fejes, *Gay Rights and Moral Panic: The Origins of America's Debate on Homosexuality*, Philip Jenkins, *Moral Panic: Changing Concepts of the Child Molester in Modern America* (New Haven [Conn.]: Yale University Press, 1998), L.

Featherstone, *Let's Talk About Sex: Histories of Sexuality in Australia from Federation to the Pill* (Newcastle upon Tyne: Cambridge Scholars Publishing, 2011].

<sup>iii</sup> Fred Fejes, "Murder, Perversion and Moral Panic: The 1954 Media Campaign Against Miami's Homosexuals and the Discourse of Civic Betterment" *The Journal of the History of Sexuality*, Gerassi, J. *The Boys of Boise: Furor, Vice, and Folly in an American City* (New York: Collier Books, 1968); Stacy Braukman, *Communists and Perverts Under the Palms: The Johns Committee in Florida, 1956-1965* (Gainesville, Florida: University Press of Florida 2012).

<sup>iv</sup> See also, for example, Y. Smaal, "Historical Perspectives on Child Sexual Abuse," Part 1 *History Compass*, 11 (2013): 702–714. doi: 10.1111/hic3.12083; Y. Smaal, Y., Historical Perspectives on Child Sexual Abuse, Part 2. *History Compass*, 11 (2013): 715–726. doi: 10.1111/hic3.12073; Steven Angelides, "Historicizing Affect, Psychoanalyzing History," *Journal of Homosexuality* 46:1-2 (2004).

<sup>v</sup> John D'Emilio, *Sexual Politics, Sexual Communities: The Making of a Homosexual Minority in the United States, 1940-1970* (University of Chicago Press, 1998); Allan Bérubé, *Coming out under Fire: The History of Gay Men and Women in World War Two* (New York: Free Press, 1990); Paul Jackson, *One of the Boys: Homosexuality in the Military During World War II*, 2nd ed (Montréal: McGill-Queen's University Press, 2010); Eric Marcus, *Making History: The Struggle for Gay and Lesbian Equal Rights, 1945-1990: An Oral History*, 1st edition (New York, NY: HarperCollins Publishers, 1992); Robert J Corber, *Homosexuality in Cold War America: Resistance and the Crisis of Masculinity* (Durham: Duke University Press, 1997); Gary William Kinsman and Patrizia Gentile, *The Canadian War on Queers: National Security as Sexual Regulation* (Vancouver, B.C.: UBC Press, 2010); Marc Stein, *City of Sisterly and Brotherly Loves: Lesbian and Gay Philadelphia, 1945-1972* (Temple University Press, 2004); Richard Cavell, *Love, Hate, and Fear in Canada's Cold War* (University of Toronto Press, 2004).

<sup>vi</sup> Mary Louise Adams, *The Trouble with Normal Postwar Youth and the Making of Heterosexuality* (Toronto, Ont.: University of Toronto Press, 1997), <http://www.deslibris.ca/ID/417754>; Janice M. Irvine, *Talk about Sex: The Battles Over Sex Education in the United States* (University of California Press, 2004); Alison Bashford and Carolyn Strange, "Public Pedagogy: Sex Education and Mass Communication in the Mid-Twentieth Century," *Journal of the History of Sexuality* 13, no. 1 (2004): 71–99, doi:10.1353/sex.2004.0037; Julian B. Carter, "Birds, Bees, and Venereal Disease: Toward an Intellectual History of Sex Education," *Journal of the History of Sexuality* 10, no. 2 (2001): 213–49, doi:10.1353/sex.2001.0022.

<sup>vii</sup> In Canada, the United States, Australia and elsewhere, these ideas were always a subject of intense debate amongst medical experts.

<sup>viii</sup> Chenier, *Strangers in Our Midst*; Elise Chenier, "The Natural Order of Disorder: Pedophilia, Stranger Danger and the Normalising Family," *Sexuality & Culture*, October 16, 2011, doi:10.1007/s12119-011-9116-z; Elise Chenier, "Seeing Red: Immigrant Women and Sexual Danger in Cold War Canada," *Atlantis: A Women's Studies Journal* 24, no. 2 (Spring 2000): 51–60.

<sup>ix</sup> David K Johnson, *The Lavender Scare: The Cold War Persecution of Gays and Lesbians in the Federal Government* (Chicago: University of Chicago Press, 2004).

<sup>x</sup> Kinsman and Gentile, *The Canadian War on Queers*.



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- <sup>xi</sup> David K. Johnson, *The Lavender Scare: The Cold War Persecution of Gays and Lesbians in the Federal Government* (Chicago: University of Chicago Press, 2009): 149.
- <sup>xii</sup> Patrizia Gentile and Gary Kinsman, *The Canadian War on Queers* (Vancouver: University of British Columbia Press, 2012), 15-16.
- <sup>xiii</sup> Craig M. Loftin, *Masked Voices : Gay Men and Lesbians in Cold War America* (Albany, New York: State University of New York Press, 2012).
- <sup>xiv</sup> On American sexual culture see Carolyn Lewis, *Prescription for Heterosexuality : Sexual Citizenship in the Cold War Era* (Chapel Hill, NC: University of North Carolina, 2010).
- <sup>xv</sup> Erving Abella, *None is Too Many: Canada and the Jews of Europe, 1933-1948* (Toronto: Lester and Orpen Dennys, 1982).
- <sup>xvi</sup> *Ibid.*
- <sup>xvii</sup> Wendy B. Bostwick, Carol J. Boyd, Tonda L. Hughes, Brady T. West, Sean Esteban McCabe, "Discrimination and mental health among lesbian, gay, and bisexual adults in the United States," *American Journal of Orthopsychiatry*, 00029432, 2014, Vol. 84, Issue 1.
- <sup>xviii</sup> See especially Stein, *City of Sisterly and Brotherly Loves*.
- <sup>xix</sup> Elizabeth Lapovsky Kennedy and Madeline D. Davis, *Boots of Leather, Slippers of Gold: The History of a Lesbian Community* (New York: Routledge, 1993); Cameron Duder, *Awfully Devoted Women: Lesbian Lives in Canada, 1900-65* (Vancouver: University of British Columbia Press, 2010); Stein, *City of Sisterly and Brotherly Loves*; Marcus, *Making History*.
- <sup>xx</sup> David E Baker, "Psychological Effects of Not Having Equal Rights and Privileges in the Lesbian, Gay, Bisexual, Transgender Community: Activism as an Antidote?" PsyD thesis, Philadelphia College of Osteopathic Medicine, 2007. On the value and benefits of Gay-Straight Alliances in high schools, see Maralee Mayberry, "Gay-Straight Alliances: Youth Empowerment and Working toward Reducing Stigma of LGBT Youth" *Humanity and Society*. 37.1 (2012) and Bruce MacDougall and Paul Clarke. "The Case for Gay-Straight Alliances (GSAs) in Canada's Public Schools: and Educational Perspective," *Education Law Journal* 21.2 (May 2012): 143-165" Bruce MacDougall and Paul Clarke. "The Case for Gay-Straight Alliances (GSAs) in Canada's Public Schools: A Legal Perspective," *Education Law Journal* 21.3 (Oct 2012): 197-227.
- <sup>xxi</sup> Patrick W. Corrigan and Alicia K. Matthews, "Stigma and disclosure: Implications for coming out of the closet," *Journal of Mental Health* 12.3 (June 2003): 236-7.
- <sup>xxii</sup> *Ibid.*
- <sup>xxiii</sup> Wally Oppal, *Forsaken: The Report of the Missing Women Commission of Inquiry* (Missing Women Commission of Inquiry Vancouver, BC: 2012).
- <sup>xxiv</sup> David Rayside, 'Memo to Harriet Sachs and Clayton Ruby, Re: Douglas vs. H.M. The Queen/ 3 December 1990; Rayside, *On the Fringe: Gays and Lesbians in Politics* (Ithaca ny: Cornell University Press 1998).
- <sup>xxv</sup> Miriam Smith, "SOCIAL MOVEMENTS AND JUDICIAL EMPOWERMENT: COURTS, PUBLIC POLICY, AND LESBIAN AND GAY ORGANIZING IN CANADA.," *Politics & Society* 33, no. 2 (2005): 327-53; Miriam Catherine Smith and Blackwell Echo, *Political Institutions and Lesbian and Gay Rights in the United States*

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*and Canada*, 1st ed, Routledge Studies in North American Politics 1 (New York: Routledge, 2008).

<sup>xxvi</sup> <http://www.pewresearch.org/key-data-points/gay-marriage-key-data-points-from-pew-research/>

This is the 1<sup>st</sup> Affidavit  
of Elise Chenier in this case  
and was made on April 14, 2014

No. \_\_\_\_\_  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**BETWEEN:**

TREVOR JAMES LOKE

**PETITIONER**

AND

MINISTER OF ADVANCED EDUCATION OF BRITISH COLUMBIA

**RESPONDENT**

**AFFIDAVIT #1 OF ELISE CHENIER**

Janes Freedman Kyle Law Corporation  
340 – 1122 Mainland Street  
Vancouver, BC V6B 5L1  
Telephone: 604-687-0549  
Attention: Karey M. Brooks, File No.: 1202-001



This is Exhibit "G" referred to in the  
affidavit of Tracy Tso  
sworn before me at Vancouver  
this 16 day of January 2015  
[Signature]  
A Commissioner for taking Affidavits  
for British Columbia

This is the 1<sup>st</sup> Affidavit of Jill Bishop  
April 9, 2014

No. S-142908  
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN

TREVOR JAMES LOKE

PETITIONER

AND

MINISTER OF ADVANCED EDUCATION OF BRITISH COLUMBIA

RESPONDENT

**AFFIDAVIT #1 OF JILL BISHOP**

I, Jill Bishop, Articling Student, of Kelowna, British Columbia, MAKE OATH AND SAY THAT:

1. I am an alumna of Trinity Western University (TWU), and as such have personal knowledge of the matters hereinafter deposed to, except where they are stated to be made on information and belief, and where so stated I believe them to be true.
2. I am openly lesbian. I have known that my sexual orientation is lesbian since I was five. I was married in April 2013. My wife is a law student.
3. I live in Kelowna where I work as an articling student at Hergott Law, primarily practicing in the area of personal injury. There is one lawyer, two articulated students, one paralegal and thirteen staff at the firm. I am the only openly gay employee of the firm.

4. I grew up in Camrose, Alberta, where I was home-schooled by my mother throughout elementary and secondary school. My parents home-schooled me and my four siblings. They decided we should be home-schooled because my parents were concerned about us being taught concepts that do not align with their religious world-view. I finished high school in June 2003.
5. I attended bible school at Youth With a Mission (YWAM) in Vancouver in 2005-2006. There was an outreach component to the program, where students had the opportunity to travel to Perm, Russia.
6. I come from a religious background, I believe in God and I consider myself to be Christian. I do not agree with TWU's theology that requires gay and lesbian people to disclaim their identity and renounce their sexuality.
7. I have always wanted to have a professional life that involves helping others, so when I was thinking about post-secondary education I planned to pursue medicine or law. When I wanted to go to university, though I was a good student, because I had not attended public school I had limited options. Most universities required completion of provincial examinations for admission. TWU did not, and when I applied to the school I was accepted.
8. In September 2006, I began my studies at TWU. In my first year, I attended through TWU's virtual campus. They offered an online first year program that coincided well with my travel and work plans, and allowed me to complete some required courses. I recall that I had to "click" my agreement to the TWU Community Covenant on the TWU website in applying for the school. I lived with my parents during that school year.
9. I attended TWU on campus from September 2007 to April 2009. I began a same-sex relationship in the spring or summer of 2007. I lived on campus at TWU in the fall semester of 2007, but I found the environment very oppressive. It was very hard to constantly guard my sexual identity from discovery. I felt that I was forced to live a double-life, and did not like having to lie about my personal circumstances. I recall pretending I had a boyfriend in Alberta, just to avoid questions. I didn't spend any more

time than necessary at TWU. I would go to class or to the library but didn't try to make personal relationships. This was the opposite of my experiences at YWAM and later at law school. At TWU I felt I needed to live my life and find my friends elsewhere where I could be myself.

10. My girlfriend and I moved in together when I moved off campus in December 2007. We were together until September 2009.
11. When I attended TWU on campus, we were required at the orientation to review and sign the Community Covenant. I disagreed with the Covenant when I signed it, but I signed anyway. I knew that I would be breaking it from the moment I signed it, as I was already in a same-sex relationship at the time. I felt a lot of guilt about that.
12. During that time I had some realizations about my relationship to my faith. When you are a child and you realize that you are gay, you don't know that being gay is something that other people experience or that it is normal. You just think you have been designed wrong. I believed that when I was young.
13. Going to TWU and engaging in my own biblical interpretation made me realize that an approach to sexuality that denies the dignity of gay and lesbian people, based on interpretation of an ancient text written in another culture, in another time where the autonomy of women was not recognized, is not a positive or a preferable approach to faith. This made me confront the fact that there is a lot of hate perpetuated by certain interpretations of religion, including Christianity.
14. The Covenant was a subject of discussion on campus: it prohibits activities that many university-aged people engage in, including consuming alcohol and engaging in sexual intimacy. The Covenant requires students to hold one another to account for their behaviour and their compliance with the Covenant. I observed that people at TWU were not open about their personal lives in some respects. I believe that other students shared my fear of expulsion or other consequences, and were careful to conform.

15. The quality of education at TWU is in many ways excellent, particularly the small class sizes and the accessibility of professors who are passionate about teaching. However, I have misgivings about the quality of education too.
16. The Community Covenant is a part of the TWU culture and reflects that culture. The values expressed in the Covenant are reinforced constantly in all aspects of life and instruction on campus. In our courses, professors would constantly bring the lessons back to reflecting upon how the issues relate to Christian values. All of the assignments required putting our work into the context of our faith and the values of evangelical Christianity. I observed that the lens of evangelical Christianity was omnipresent. The effect of this was that people did not give opinions in class discussions that did not align with those values.
17. Another effect was that professors carefully avoided expressing opinions that did not align with the Covenant and TWU's values.
18. In my first year, I observed that TWU's values were present in the online community as well. In that context, I felt somewhat freer than on campus to express my opinions because at that time I was single, and had not entirely come to terms with my sexual identity. In that context, I did not feel the threat of expulsion because I wasn't "practicing" homosexuality. That was not the case when I attended TWU on campus. I felt that I was not able to fully express my views, or to express my identity. I was aware that there are repercussions for conduct contrary to the Covenant, and that my very identity was not accepted under TWU's values.
19. Because homosexuality is condemned by TWU's value system and the Covenant, it was not a subject of open or inclusive discussion at TWU. In psychology classes I observed professors talking about different views of whether homosexuality was due to nature or nurture. Some professors would condemn homosexual activity, and none would condone. Some would say if you were born that way, it would be your sin to bear. In discussion groups, gay and lesbian issues came up frequently, but people were very unlikely to raise opinions that were contrary to the covenant's disavowal of sex outside of marriage and relationships between same-sex couples.

20. I did not feel able to raise other perspectives on homosexuality. I felt a real risk of expulsion. Also, I did not feel comfortable in these conversations, and did not want the attention that would come from being out in this atmosphere, or even to take an alternative position. In a sense, I believed I had signed away my right to have a position on homosexuality in the TWU environment; by signing the Covenant, I had agreed to abide by their values even though they were wrong.
21. Given the effects of the Covenant and the TWU values, there was not a culture of diverse opinion at TWU. Conformity is not surprising when TWU has a mandatory Covenant that prohibits divergence from its values. But this means that the values of the Covenant are at the expense of diversity.
22. I was at TWU for three years before going to Law School. While I was at TWU I enrolled in the business program. I wrote the LSAT in June of 2009, and achieved a score that suggested I could be accepted to law school the following year. I was two classes short of a full three years of undergrad, so I took one online class in the fall of 2009, and one in the spring of 2010.
23. I moved to Saskatoon in August of 2010 to begin law school at the University of Saskatchewan (USask). I spent my first two years at USask and my third year at University of Victoria. My experience at law school was in stark contrast to my experience at TWU. At law school in USask and UVic, students and faculty were open and willing to share unpopular opinions. At TWU discussion was filtered, and opinions were stifled by the threat of expulsion or other consequences. The perspectives expressed by students and professors alike were homogenous and did not promote vibrant dialogue.
24. The openness of discussion at UVic and USask inspired my appreciation for the perspectives of others, challenged my pre-conceptions and beliefs, and allowed me to develop critical thinking and analysis that considers all perspectives. In my view, this type of thinking is at the core of the study of law.
25. I met my wife in February of 2011, and she applied to law school the following year. We had planned to move to BC, so she applied to the University of Victoria. She was




accepted, and I was approved to attend UVic as a visiting student for my final year of law school (2012 - 2013). We were married on April 27, 2013 in Saskatoon.

26. I began my articles in May 2013, and I expect to be called to the Bar in British Columbia on May 21, 2014. I plan to stay on with Hergott Law as an associate following my call to the Bar.
27. If TWU had a law school at the time I was considering my law school applications, I would have considered applying. I think anyone who lives in British Columbia and wants to go to law school would consider application to a school in the lower mainland.
28. I would be excluded by TWU. I am now married to a woman, which is contrary to the Community Covenant. I could not now attend a law school with TWU's values. Those values condemn a whole sector of the population, including me.
29. It would also present too great a personal cost for me to either disclaim my relationship with my wife in order to attend TWU Law School or to continue our relationship and live a lie. For those reasons the effect of the covenant is that I would also be excluded from TWU.
30. Furthermore, I believe that lawyers have the obligation to act with the utmost integrity. If the Community Covenant is required of people applying to law school who are in same-sex marriages or in relationships outside of marriage, they will be required to lie as the first step they take in entering law school. I could not sign the Covenant now, knowing my obligations as a lawyer.
31. Being a lawyer, to me, includes a special requirement to protect the rights of those who are discriminated against, and those in society who get the short end of the stick. I think lawyers have to work toward making sure that people are protected and treated equally no matter who they are. The TWU law school's promotion of that exclusion does not fit with my understanding of the values of our code of professional conduct, the Law Society's guiding principles, the Canadian Bar Association's principles, all of which embrace anti-discrimination objectives.

32. When I found out that the Province of British Columbia had approved the law degree program at TWU, I felt very disappointed as a member of the public and a new member of the profession. It is contrary to my vision of our profession to have a law school in BC that some cannot attend because of their sexual identity.

SWORN before me at the City of  
West Kelowna, in the Province of  
British Columbia, this 9 day of  
April, 2014.



A Commissioner for taking affidavits  
for British Columbia

**Paul J. Hergott**  
Barrister & Solicitor  
105 - 1195 Industrial Road  
Kelowna, BC V1Z 1G4



Jill Bishop

This is the 1<sup>st</sup> Affidavit of Jill Bishop  
April 9, 2014

No. \_\_\_\_\_  
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN

TREVOR JAMES LOKE

PETITIONER

AND

MINISTER OF ADVANCED EDUCATION OF BRITISH COLUMBIA

RESPONDENT

**AFFIDAVIT # 1 OF JILL BISHOP**

Janes Freedman Kyle Law Corporation  
340 – 1122 Mainland Street  
Vancouver, BC V6B 5L1  
Telephone: 604-687-0549  
Attention: Karey Brooks, File No.: 1202-001



This is the 1<sup>st</sup> Affidavit  
of Mary Bryson in this case  
and was made on April 10, 2014  
No. S=142908  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**BETWEEN:**

**TREVOR JAMES LOKE**

**PETITIONER**

**AND**

**MINISTER OF ADVANCED EDUCATION OF BRITISH COLUMBIA**

**RESPONDENT**

**AFFIDAVIT #1 OF MARY BRYSON**

I, MARY BRYSON, Professor and Director, of the City of Vancouver, in the Province of British Columbia, MAKE OATH AND SAY AS FOLLOWS:

1. Since 1988 I have been employed as a faculty member at the University of British Columbia. In 1993 I was granted tenure. I am currently a Full Professor of Sexuality and Gender Studies in the Department of Language and Literacy Education in the Faculty of Education and jointly appointed in the Institute for Gender, Race, Sexuality and Social Justice in the Faculty of Arts. In addition, since 2012, I have been employed as Director of the Institute for Gender, Race, Sexuality and Social Justice in the Faculty of Arts at the University of British Columbia. Prior to this appointment, from 2007 to 2011, I was Director of the Centre for Cross-Faculty Inquiry in the Faculty of Education and Director of the Network of Centres and Institutes in the Faculty of Education at the University of British Columbia.

This is Exhibit "H" referred to in the  
affidavit of Tracy Tsou  
sworn before me at Vancouver  
this 10 day of January 2015  
Sofia Chak  
A Commissioner for taking Affidavits  
for British Columbia

2. I completed my Ph.D. in Education, in the Department of Educational Psychology at the Ontario Institute for Studies in Education, at the University of Toronto in 1989.
3. My expertise spans two relevant interdisciplinary areas: (1) critical studies of gender and sexuality, and (2) health informatics, literacies and networked knowledge access and technologies.
4. My gender/sexuality and educational studies expertise is professionally recognized in my having been selected to take up a senior leadership position at the University of British Columbia, as the first Head of a new academic unit, the Institute for Gender, Race, Sexuality and Social Justice. This position entrusts me with the work of the development and academic oversight of programmes and curriculum in Sexuality and Gender Studies, and also policies and practices in respect of the various rights and freedoms pertinent to Canadian public education.
5. I teach courses in Sexuality studies in both the Faculty of Education and the Faculty of Arts at the University of British Columbia. As a Visiting Fellow I taught 'Gender and Sexuality in Schools' at the School of Education, Stanford University in 2011. Attached to this my Affidavit and marked as **Exhibit "A"** is a copy of my Curriculum Vitae, which gives further details on the work that I have done.
6. I have been requested by the Petitioner in the above matter to provide my opinion on the following questions in light of my expertise in the area of sexual and gender studies, sexual minorities and educational institutions: In relation to the Trinity Western University Law School, what are the effects of the admission policy on prospective Law students who are sexual minorities? Would you expect that the admissions policy would have any effects on the larger community? If so, what effects? Does it make a difference that the state has sanctioned the admissions policy of the school?
7. I certify that I am aware of my duty to assist the court and not to be an advocate for any party; that I have made this Affidavit in conformity with this duty; and that if I am called to give oral or written testimony, that testimony will be given in conformity with this duty.

**A. WHAT ARE THE EFFECTS OF THE ADMISSION POLICY ON PROSPECTIVE LAW STUDENTS WHO ARE SEXUAL MINORITIES?**

**A-I. WHETHER OR NOT SEXUAL MINORITIES WILL BE EXCLUDED FROM THE LAW SCHOOL AS A RESULT OF THE ADMISSIONS POLICY?**

8. As part of the enactment of the Trinity Western University (TWU) Admission Policy, all TWU community members are required also to be signatories to the Trinity Western University *Community Covenant* agreement. In their provision of a signature to the Covenant, signatories pledge that sexual intimacy cannot be expressed or enacted outside the bonds of an arbitrarily restricted state of marriage, wherein gender restrictions on the choice of a person's marriage partner exclude relationships between one man and one man or between one woman and one woman. Thus, the TWU Admissions policy, by means of the Covenant requirement, excludes currently or prospectively married Lesbian, Gay, Bisexual (LGB) people from application to, or participation as students in the Trinity Western University Law School.

**A-II. WHETHER OR NOT THE ADMISSIONS POLICY REQUIRES SEXUAL MINORITY STUDENTS TO LIE IF THEY WISH TO ATTEND, AND WHAT, IF ANYTHING THAT HAS TO DO WITH AN INDIVIDUAL'S PERSONAL INTEGRITY?**

9. The requirement, as part of the TWU admissions policy, to be a signatory to the Covenant obligates currently or prospectively married LGB people as part of their enrollment in the Trinity Western University Law School to practice dishonesty and concealment in relation to their marital status and in so doing, their sexual orientation, if they wish to be admitted and to remain enrolled in the Trinity Western University Law Faculty. The requirement to lie so as to conceal marital status in a same-sex relationship implicates individuals in practises of systematically distorted communication that form a key part of lifelong negative consequences to a reliable scheme of self, personal integrity and positive mental and physical health<sup>1</sup>.

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<sup>1</sup> Jerry Bigner and Joseph Wetchler. "*Handbook of LGBT-affirmative couple and family therapy.*" (2012), New York, NY: Routledge.

**A-III. WHETHER OR NOT THE ADMISSIONS POLICY CONTRIBUTES TO THE PERPETUATION OF STIGMA; AND WHETHER OR NOT THE ADMISSIONS POLICY AFFECTS SEXUAL EXPRESSION; AND WHAT, IF ANYTHING, THAT HAS TO DO WITH AN INDIVIDUAL PERSON’S DIGNITY AND INTEGRITY?**

11. The TWU admissions policy thus prevents LGB community members from having and expressing the very “healthy sexuality<sup>2</sup>” that the Covenant appears to affirm – a specific abrogation of a healthy sexuality (and also, therein, of the Right to Health) that affects differentially those groups of people (LGB) for whom healthy sexuality includes a life-long same-sex relationship and kinship/familial trajectory that includes marriage. In so doing, the requirement to sign the Covenant unfairly curtails those LGB Trinity Western University community members’ Rights to Recognition – to imagine themselves as capable of expressing healthy sexual and familial relationships that include marriage.
12. The admissions policy perpetuates and exacerbates already-existing stigmatization and marginalization of LGB people beyond the Trinity Western University community, by means of its insistence on the right to practice forms of discrimination against LGB people that (i) have been reversed in the Canadian legal system in other contexts and that (ii) continue to cause harm elsewhere, such as the exclusion of LGB people from the right to marriage.
13. Coleman defined an “equal educational opportunity” as “reduction in inequality”, recognizing that the school “and the continuing environments outside the school that compete for the child's time, are unequal, and that the school's task is – besides increasing opportunity for all, through what it imparts— to reduce the unequalizing impact on adult life of these differential environments<sup>3</sup>”. Barriers to the Right to Education – to the rights to educational opportunities, that interfere with the full participation of all students as equals, form the basis of what education defines as discrimination.
14. Within education, attention to the reduction of discrimination against named groups (e.g. LGB people) and the recognition of the rights and freedoms of vulnerable groups such as

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<sup>2</sup> Trinity Western University Community Covenant. p. 3.

<sup>3</sup> James S. Coleman, "What Is Meant by 'an Equal Educational Opportunity'?" “ *Oxford Review of Education* 1, no. 1 (1975): 27-29.

those named in the *Charter of Rights and Freedoms* are regarded as essential and foundational and as central tenets of education. Within education today, it is widely agreed upon that discrimination would be defined as systemic limits to members of particular groups': opportunities and rights, specifically, here: Rights to Recognition, Rights to the Communicability of Presence, and unequal access to the Right to Health<sup>4</sup> – including as a key part of health, the right to develop a coherent and resilient sexual and gender identity as part of building healthy self-esteem, families and relationships<sup>5</sup>. Education values the development of cultural competencies in its students, where students are free to embody and experience their identity and foster healthy self-esteem inclusive of family, community, and intimate relationships. Education strives to be inclusive of all named groups and inclusive in its curricular offerings and its policies and procedures, so that students are able to see themselves in relation to community, learning and knowledge. The Trinity Western University Community Covenant and the insistence that sexual minority (LGB) students agree to it and sign it as a condition of enrollment at the University is discriminatory.

15. Within education there is an extensive body of research funded by national research granting agencies and published in peer-reviewed journals that are governed by the highest scientific standards replete with evidence that documents the specific and persistent harms caused by discrimination, particularly harms caused by discrimination against LGB students<sup>6</sup>. Research evidence documents that discrimination against LGB people in educational settings results in physical, psychological, and social harms<sup>7</sup>. Discriminatory educational practices such as this one detrimentally affect academic

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<sup>4</sup> <http://www.who.int/mediacentre/factsheets/fs323/en/>

<sup>5</sup> <http://fidh.org/IMG/pdf/cedh624a2013bassdef.pdf>

<sup>6</sup> Elizabeth M. Diaz, and Joseph G. Kosciw. "*Shared Differences: The Experiences of Lesbian, Gay, Bisexual, and Transgender Students of Color in Our Nation's Schools*." (New York: GLSEN, 2009).

Paul C. McCabe, Eliza A. Dragowski and Florence Rubinon. "What Is Homophobic Bias Anyway? Defining and Recognizing Microaggressions and Harassment of LGBTQ Youth." *Journal of School Violence* 12, no. 1 (2013): 7-26.

Elizabeth Saewyc, Colleen Poon, Naren Wang, Yuko Homma, Annie Smith, and McCreary Centre Society. "*Not yet Equal: The Health of Lesbian, Gay, & Bisexual Youth in British Columbia*." (Vancouver: McCreary Centre Society, 2007).

Catherine T. Taylor, with T. L. McMinn, T. Elliott, S. Beldom, A. Ferry, Z. Gross, S. Paquin, and K. Schachter.

"*Every Class in Every School: The First National Climate Survey on Homophobia, Biphobia, and Transphobia in Canadian Schools*. Final Report." (Toronto, ON: Egale Canada Human Rights Trust, 2011).

<sup>7</sup> Sadowski, Michael. "Beyond gay-straight alliances." *The Education Digest* 76, no. 1 (2010): 12-16.



outcomes and personal self-esteem, which can lead to health disparities, disparities in longevity and relatedly, suicidality, life-long personal hardships and negative career outcomes.

16. Research studies to-date highlight the significance of the perception of non-discriminatory environments in accomplishing positive educational outcomes for students.<sup>8</sup> Large-scale empirical research recently carried out in British Columbia (and elsewhere) by Elizabeth Saewyc<sup>9</sup> (funded by the Canadian Institutes of Health Research and the McCreary Centre Society) provides robust and generalizable evidence that there is persistent and significant harm that results from discrimination against LGB persons in educational environments – harms that include: higher rates of depression, increased suicidality and other forms of self-harm, substance abuse. The cumulative developmental effects of LGB discrimination lead to major population-based health disparities, and increased rates of homelessness. In educational settings where discriminatory policies and institutional exclusions fail to protect and acknowledge LGB students there is a direct relationship with an alarming and lifelong pattern of negative outcomes and harms.
17. Within the field of Education, research to-date, as it is typically interpreted by professionals working in Education, would define the harm caused by the requirement to sign the Trinity Western University Covenant while being lesbian or gay as the systematic deprivation of LGB students' Rights to Health, and Rights to Recognition – in other words, as the systematic deprivation of LGB students' rights to count themselves within that group for whom a democratic society includes the right to marriage as a key milestone in the trajectory of healthy sexuality and the formation of families. The professional state of understanding of the harm caused by (a) accepting that you cannot sign the Covenant with integrity, and (b) having that law school closed to you would be

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<sup>8</sup> Adalberto Aguirre, Jr. ., & Melinda Messineo, M. Racially Motivated Incidents in Higher Education: What Do They Say About the Campus Climate for Minority Students? *Equity and Excellence in Education*, 30, no. 2 (1997): 26-30.

Elizabeth J. Whitt, Marcia I. Edison, Ernest T. Pascarella, Patrick T. Terenzini, & Amuary Nora, A. Influences on Students' Openness to Diversity and Challenge in the Second and Third years of college. *Journal of Higher Education*, 72 (2001): 172-204.

<sup>9</sup> Elizabeth Saewyc, Colleen Poon, Naren Wang, Yuko Homma, Annie Smith, and McCreary Centre Society. "Not yet Equal: The Health of Lesbian, Gay, & Bisexual Youth in British Columbia." (Vancouver: McCreary Centre Society, 2007). [http://www.mcs.bc.ca/pdf/not\\_yet\\_equal\\_web.pdf](http://www.mcs.bc.ca/pdf/not_yet_equal_web.pdf)

understood by experts in Education as the deprivation to LGB people of the Right to Education, and of the Right to Self-Care; wherein self-care is represented by, and understood to include, being free to communicate with integrity about LGB identity and expression. It is widely considered axiomatic by experts in Human Development that systemic exclusion and the requirement to conceal same-sex relationships and LGB identity and expression combine to produce population-based disparities in academic success and in health – disparities that are caused by decreased self-esteem and the life-long impacts of minority stress<sup>10</sup>. I share this opinion. Such systemic and life-long harms are very serious.

## **B. EFFECTS ON THE LARGER COMMUNITY**

18. Harms caused by institutionalized practices of LGB exclusion and discrimination also negatively impact the wider campus climate in post-secondary settings. Research to-date indicates that perceptions of campus climate can have important implications on personal, emotional, academic, and professional development. LGB respondents were significantly less likely than their allies to feel very comfortable or comfortable with the overall campus climate, their department/work unit climate, and classroom climate than their heterosexual counterparts<sup>11</sup>. Students who fear LGB discrimination are more likely to consider leaving school and/or fear for their physical safety, and avoid disclosure of sexual identity<sup>12</sup>. Furthermore, Wolff & Himes<sup>13</sup> argue that vital educational mental health disparities and social development problems related to LGB stigma and minority stress are likely heightened in religious educational institutions that discriminate against LGB students.

### **B-I. DOES IT MAKE A DIFFERENCE THAT THE STATE HAS SANCTIONED THE ADMISSION POLICY OF THE SCHOOL?**

19. Research on the health impacts of living in states in the United States where the state has enacted laws that ban same-sex marriage provides compelling evidence to support the

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<sup>10</sup> [http://diversityscience.psych.ucla.edu/speakers/pdf/Meyer\\_Psych\\_Diversity\\_Lecture\\_2-9-12.pdf](http://diversityscience.psych.ucla.edu/speakers/pdf/Meyer_Psych_Diversity_Lecture_2-9-12.pdf)

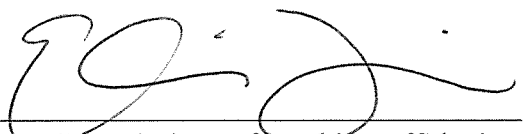
<sup>11</sup> Susan Rankin, Genevieve Weber, Warren Blumenfeld, & Somjen Frazer. 2010 *State of Higher Education for Lesbian, Gay, Bisexual & Transgender people*. (Charlotte, NC: Campus Pride, 2010).

<sup>12</sup> (Rankin, Weber, Blumenfeld, & Frazer, 2010).

<sup>13</sup> Joshua R. Wolff and Heather L. Himes. "Purposeful Exclusion of Sexual Minority Youth in Christian Higher Education: The Implications of Discrimination." *Christian Higher Education* 9, no. 5 (2010): 439 — 60.

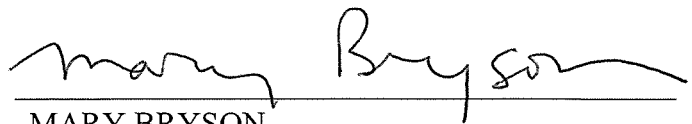
argument that the institutionalization by the state of discrimination against LGB people has deleterious effects on the larger LGB community. Hatzenbeuhler et al.<sup>14</sup> carried out a large-scale empirical study that provides evidence that there are significant and negative health impacts of living in states that ban same-sex marriage. Within both Canada<sup>15</sup> and the United States<sup>16</sup>, there is significant evidence of systemic and widespread effects of discrimination in institutionalized settings against LGB people. Therefore, it is reasonable to conclude that the effects of the “freedom to discriminate” that has been provided to Trinity Western University – a freedom sanctioned by the state by means of its sanction of the TWU Admissions Policy – these harmful effects stretch far beyond the bounds of any individual educational setting and thus impact the larger lesbian, gay and bisexual community. The Right to Marriage, and relatedly, the right to a healthy sexuality which is in part constituted by the right to marriage, and by the right to communicate freely and with integrity about a significant relationship – these rights are unduly foreclosed by the Trinity Western University Covenant. The fact that the State, as an institutional body has provided accreditation to Trinity Western University Law School, knowing full well of the existence of a discriminatory Covenant, only adds to the deleterious impacts of minority stress already experienced by LGB people in the larger community.

SWORN before me at the City of Vancouver, in the Province of British Columbia, this 10<sup>th</sup> day of April, 2014.



A Commissioner for taking affidavits  
for British Columbia

**Ellyn R.S. Sigurdson**  
Barrister & Solicitor  
340 - 1122 Mainland Street  
Vancouver, BC V6B 5L1  
(604) 687-0549



MARY BRYSON

<sup>14</sup> Mark L. Hatzenbuehler, Kate McLaughlin, Katherine M. Keyes and Deborah S. Hasin. 2010. *The Impact of Institutionalized Discrimination on Psychiatric Disorders in Lesbian, Gay, and Bisexual Populations*. <http://www.ncbi.nlm.nih.gov/pubmed/20075314>

<sup>15</sup> Michael Tjepkema, “Health Care Use Among Gay, Lesbian and Bisexual Canadians.” *Health Reporter* 19, no 1: (2008) 53-64.

<sup>16</sup> National Research Council. *The Health of Lesbian, Gay, Bisexual, and Transgender People: Building a Foundation for Better Understanding*. Washington, DC: The National Academies Press, 2011. [http://www.nap.edu/catalog.php?record\\_id=13128](http://www.nap.edu/catalog.php?record_id=13128)



THE UNIVERSITY OF BRITISH COLUMBIA  
Curriculum Vitae for Faculty Members

This is Exhibit "A" referred to in  
the affidavit of Mary Bryson  
sworn before me at Vancouver  
this 10 day of April 2014  
[Signature]  
A Commissioner for taking Affidavits  
for British Columbia



**Dr. Mary K. Bryson**

<http://ubc.academia.edu/MaryKBryson>

CONTACT: [mary.bryson@ubc.ca](mailto:mary.bryson@ubc.ca), 604-355-8454

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**THE UNIVERSITY OF BRITISH COLUMBIA**  
***Curriculum Vitae for Faculty Members***

1. **SURNAME:** BRYSON **FIRST NAME:** Mary **MIDDLE NAME:** Kathleen
2. **DEPARTMENTS:** Department of Language and Literacy Education + Institute for Gender, Race, Sexuality and Social Justice, Faculty of Arts
3. **FACULTIES:** Faculty of Education + Faculty of Arts  
**WEBSITE:** <http://ubc.academia.edu/MaryKBryson>
4. **PRESENT RANK:** Professor and Director, Institute for Gender, Race, Sexuality and Social Justice and Professor, Literacy and Language Education
5. **POST-SECONDARY EDUCATION**

University or Institution	Degree	Subject Area	Dates
University of Toronto	Ph.D.	Education	1984 – 1989
Tulane University	M.Ed.	Education	1982 – 1984
University of Toronto	B.A.	Humanities	1976 – 1980

6. **EMPLOYMENT RECORD**

(a) *Prior to coming to UBC*

University, Company or Organization	Rank or Title	Dates
University of Toronto	Graduate Research Assistant	1984-1988
Le Jardin Montessori School, New Orleans	Teacher	1982 -1984

(b) *At UBC*

Rank or Title	Dates
Director, Institute for Gender, Race, Sexuality and Social Justice, Faculty of Arts, UBC	2012 - present
Director, Network of Centres and Institutes in Education	2007 - 2011
Director, Centre for Cross-Faculty Inquiry in Education	2007 - 2011

Professor	2007 - present
Associate Professor	1997 – 2007
Assistant Professor	1988 - 1997

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**(c) Date of granting of tenure at UBC:**

July 1, 1993

**(d) Date of sabbatical leaves during career:**

September 01, 2001 to August 30, 2002

September 01, 1994 to August 30, 1995

**(e) Associate Faculty Memberships**

2010-2011, *Senior Research Fellowship*, Michelle R. Clayman Institute for Gender Research, Stanford University

2011, Spring Quarter, Visiting Professor, School of Education, Stanford University

2010-present, *Faculty Associate*, Green College, University of British Columbia

1997–present, *Faculty Associate*, Center for Women's and Gender Studies, University of British Columbia

2001-2002, *Visiting Scholar*, Center for Critical Psychology, University of Western Sydney

1997–2000, *Faculty Associate*, Green College, University of British Columbia

1997 Summer, *Visiting Scholar*, Faculty of Education, University of Auckland

## **7. TEACHING**

**(a) Areas of special interest and accomplishments**

My interests and expertise in teaching span three transdisciplinary areas:

- Media, Mobility and Communications
- Critical Studies in Gender and Sexuality
- Transnational Feminist and Queer Theory, Difference and Public Knowledge

It is notable that since the early nineties, a significant contribution that I have made to teaching, both locally and more broadly, is constituted by the substantive innovative pedagogical practices and social media and networked infrastructures that I have developed. I have taught and authored online courses, including a Required Core online course in UBC's Masters of Educational Technology (MET) graduate program (ETEC 510, *Design of Technology-Supported Learning Environments*).

I am actively involved in graduate education. I have participated in the supervisory committees of MA/MEd and PhD students from diverse departments in Education, including ECPS (Educational and Counseling Psychology and Special Education), CUST (Curriculum Studies), CCFI (Center for Cross-Faculty Inquiry), EDST (Educational Studies), and LLED (Language and Literacy Education (as well as the Departments of Sociology & Anthropology, Critical Studies in Sexuality, Interdisciplinary Studies, Journalism, and Women's and Gender Studies (renamed: Institute for Gender, Race, Sexuality and

Social Justice). I have supervised (or co-supervised) a large cohort of Masters and Doctoral Students, in addition to participating as a committee member for many Masters and Doctoral Students. In the cohort of Doctoral students whom I have supervised, most are recipients of SSHRC/UGF fellowships; all have published multiple journal articles in peer-reviewed high-caliber journals, and have presented papers at international conferences. I have trained all of these students, and many others, in proposal-writing, authoring of articles for publication in peer-reviewed top-tier journals, conference paper preparation and presentation skills, methodological practices (including various forms of interviewing, observation techniques, and the like), and have been able to support many of them with funds generated by my research grants.

***(b) Courses Taught at UBC***

**Undergraduate Courses**

PBL – Problem-based Learning, “Culture and Technology” cohort;

EDUC 390 – Teachers, Teaching, and New Media;

EPSE 313 – Educational Applications of Developmental Theories;

EPSE 423 – Learning, Measurement, and Teaching;

WMST 425 – Lesbian Subjects Matter: Feminism/s From the Margins (Women’s and Gender Studies)

EDUC 113 – Queer Studies in Public Knowledge: Gender and Sexuality in Schools (Visiting Professor, Spring 2011, School of Education, Stanford University)

**Graduate Courses**

EPSE 501 - Seminar in Human Development, Learning and Culture

EPSE 503 – Cultural Perspectives on Learning, Development and Media

EPSE 584 - Motivation in Education

EPSE 502 – Cognition, Language and Literacy Processes in Education

EPSE 604 – Culture Matters: Sociocultural Theory and Educational Practices

EPSE 571 – Masters Seminar

EPSE 601 – Doctoral Seminar

ETEC 510 – Design of Technology Supported Learning Environments (online course that I authored)

EDUC 500 – Research Methods in Education

INDS 502 – Women, Technology and Information (Women’s and Gender Studies)

CCFI 572 – Cyberspace Culture/s as Postmodern Curricula

CCFI 565 – Difference and the “Digital Divide”: Media and Democratic Public Pedagogies

CCFI 502 – Theorizing Knowing in Education: Public Knowledge and the Politics of Difference

***(c) Graduate Student Supervision***



Program Type Key: CCFI – Centre for Cross-Faculty Inquiry, UBC  
 CNPS – Counselling Psychology (note: these M.A. degrees are 3 yrs), UBC  
 CUIN – Curriculum and Instruction, Simon Fraser University (SFU)  
 CUST – Curriculum Studies, UBC  
 EDST – Educational Studies, UBC  
 HDLC – Human Development Learning and Culture, UBC  
 JRNL – School of Journalism  
 LLED – Language and Literacy Education, UBC  
 SIAT – School of Interactive Arts and Technology, SFU  
 SPED – Special Education, UBC  
 SOCI – Sociology, UBC  
 SOCI, UVic – Sociology, University of Victoria (UVic)  
 SOWK – Social Work, UBC  
 GRSJ – Gender, Race, Sexuality and Social Justice)

Student Name	Program Type	Year		Supervisor	Committee Member	Awards, App'ts
		Start	Finish			
Sharon Spencer	M.Ed. (ECPS)	1989	1990	✓		
Susan Mirtle	M.Ed. (ECPS)	1989	1991	✓		
Eileen Stocker <i>Literacy practices and the politics of dis/ability</i>	M.A. (ECPS)	1990	1992	✓		
Kim McFarlane <i>Nursing pedagogies and gendered uses of new technologies as e-vocation</i>	M.A. (ECPS)	1990	1993	✓		
Hinda Avery <i>Built environment education: A feminist critique and reconstruction</i>	Ph.D. (CUST)	1989	1993		✓	
Diane Hodges <i>Training women to be teachers in early childhood education and the politics of participation</i>	M.A. (CCFI)	1994	1996	✓		
Judith Koote <i>Teachers, new technologies, and innovation: A study of resistances and renewal</i>	M.A. (CCFI)	1994	1996	✓		

Shawna Faber <i>Renal failure: A sociocultural investigation of an illness</i>	Ph.D. (HDLC)	1995	1999	✓		SSHRC post-doctoral award; Outstanding Author of the Year Award, 2000, <i>Journal of the Canadian Association of Nephrology Nurses and Technologists</i> (CANNT)
Carol McLelland	M.Ed. (HDLC)	1996	2000	✓		
Yoon-Ah Kim	M.Ed. (HDLC)	1996	1999	✓		
Scott Thompson <i>Disabling sexualities: Self-identified gay and bisexual men with developmental disabilities</i>	Ph.D. (CCFI)	1996	2001	✓		SSHRC; Tenure-track appointment, University of Regina
Jennifer Jenson <i>Girls ex machina: A school-based study of gender, culture and technology</i>	Ph.D. (CUIN)	1996	2000		✓	Tenure-track appointment, York University
Peter Cole <i>Coyote and Raven go canoeing: Coming home to the village</i>	Ph.D. (CUIN)	1996	2000		✓	Queen's National Scholar; Tenure-track appointment, York University
Shula Klinger <i>"Are they talking yet?": Online discourse as political action in an education policy forum</i>	Ph.D. (CCFI)	1997	2001		✓	
Rebecca Clarke <i>Whose family values?: A study of the use of a family values discourse in the Surrey book banning case</i>	M.A. (EDST)	1998	2000		✓	
Marcia Braundy <i>Men &amp; women and tools: Reflections on male resistance to women in trades and technology</i>	Ph.D. (CCFI)	1998	2004	✓		SSHRC, Graduate Student Research Award, 2004, National Association of Industrial and Technical Teacher Education (NAITT)

Beatrix Zumsted <i>Thinking girls online: Texts, body politics, and cyborgs</i>	M.A. (SOCl)	1998	2000		✓	
John Maxwell <i>Tracing the Dynabook: A study of technocultural transformations</i>	Ph.D. (CCFI)	2000	2006	✓		SSHRC, Assistant Professor, SFU
Sharalyn Jordan <i>Narratives of women who immigrate to Canada using the same-sex partner process</i>	M.A. (CNPS)	2001	2004		✓	SSHRC Tenure-track appointment, SFU
Brenda Lamb	M.Ed. (HCLC)	2001	2004	✓		
Norman McDonald	M.Ed. (SPED)	2003	2005	✓		
Tyler Hopson <i>Out, In the news: Same-sex marriage and Canadian journalism</i>	M.A. (JRNL)	2003	2005		✓	
Joyce Boedianto <i>Computers for primary students: Teachers' beliefs about classroom computer usage in primary classrooms</i>	M.A. (HDLC)	2004	2006	✓		
Surita Jassal <i>Parent-adolescent relations within the South Asian community</i>	M.A. (HDLC)	2004	2006		✓	
Kimberley Hlina	M.A. (EDST)	2004	2006		✓	SSHRC
Sharalyn Jordan <i>Queer and transnational feminist theory and immigration</i>	Ph.D. (CNPS)	2004	2010		✓	SSHRC (CGS); Jordan-Bryson Faculty of Education Mentorship Grant; Assistant Professor, SFU
Lorna Boschman <i>Queer and transnational feminist dis/ability theory and collaborative video production</i>	M.A. (SIAT)	2004	2007		✓	SSHRC
Karen Brennan <i>Capacity-building and collaborative online video-blogging</i>	M.A. (CUST)	2004	2007		✓	PhD program, MIT Media Lab; Assistant Professor, Harvard University
Lauren Hall <i>Critical theory and robotic assemblages</i>	M.A. (CUST)	2004	2007		✓	

Lori MacIntosh <i>Queer cultural studies and youth media</i>	Ph.D. (EDST)	2004	2012		✓	Faculty of Education Mentorship Grant (w. Bryson)
Jacqueline Holmes <i>Transnational feminist theory and online relationships</i>	Ph.D. (SOCI)	2004	2009		✓	SSHRC Post-Doc
Danielle Law <i>Online bullying</i>	Ph.D. (HDLC)	2005	2009		✓	SSHRC
Lina Darwich <i>LGBT youth and bullying</i>	M.A. (HDLC)	2007	2009		✓	
Tammy Iftody <i>Participation in online "reality television" communities</i>	Ph.D. (CUST)	2007	2010		✓	
Linda Dame <i>Generationality and queer women's health</i>	M.ED. (CCFI)	2007	2011	✓		
Emilia Nielsen <i>Transnational feminist theory and breast cancer discourses</i>	Ph.D. (GRSJ)	2008	2013	✓		SSHRC (CGS)
C.J. Rowe <i>Michigan Women's Festival and post-feminisms</i>	Ph.D. (CCFI)	2008		✓		4-Year UGF
Ariana Barer <i>Critical discourse analysis and the narration of violence against women</i>	M.A. (CCFI)	2008			✓	SSHRC
Milena Droumeva <i>Phenomenology and soundscapes</i>	Ph.D. (EDUC, SFU)	2008			✓	
Kurt Thumblert <i>Jacques Ranciere and Educational theory</i>	Ph.D. (EDUC, SFU)	2008	2011		✓	
Dai Kojima <i>Racialization and queer migrations</i>	Ph.D. (HDLC)	2008		✓		4-Year UGF
Michele Sorenson <i>Phenomenological and queer theoretical analysis of discourses of participatory education</i>	M.Ed. (CCFI)	2008	2010	✓		
Chelsey Hauge <i>Youth media education and post-colonial theory</i>	Ph.D. (LLED)	2009		✓		Canada Vanier PhD Award (4 years)
Ingrid Olson <i>Queer and transgender theory and accounts of sexual citizenship</i>	Ph.D. (CCFI)	2010		✓		SSHRC Doctoral Award

Marcelina Petrowski <i>Aesthetics and discourses of online learning</i>	Ph.D. (CCFI)	2010	✓			
Emma Kivisild <i>Disability studies, narration and sexual alterity</i>	Ph.D. (LLED)	2010		✓		SSHRC PhD Award (3 years)
Sheila Fung <i>Race, anti-racism, gender and embodiment</i>	M.A. (CCFI)	2010	2012	✓		
Evan Taylor <i>Transgender studies and the politics of health</i>	Ph.D. (CCFI)	2012		✓		CIHR Banting Doctoral Fellowship

## 8. SCHOLARLY AND PROFESSIONAL ACTIVITIES

### (a) *Areas of special interest and accomplishments*

The trajectory of my interdisciplinary program of competitively-funded (SSHRC, CIHR, Ministry of Education, and other granting organizations) research engages key questions in contemporary communication and transnational feminist, trans/gender and queer theory concerning:

- The politics of difference, the right to knowledge, and of informed participation in public life
- Gender and sexual difference/s, intersectional analysis and relations with women's and transgendered people's health and well-being
- Socially-networked pervasive knowledge media and the production and re/mediation of democratic cultures
- Access to, mobilization and representation of, and participation in knowledge ecologies

My program of research is designed so as to advance knowledge concerning the social, cultural and educational significance of networked media technologies and publics, and in so doing, to make significant contributions to theoretical accounts of gendered and sexual marginality and resilience. A hallmark of my intellectual project, and its scholarly focus, continues to be the articulation of an original and productive dialogue between the discourses of critical studies of sexuality and gender, and of new media. I have conducted pioneering research that, by shifting discourses pertaining to democratization and new media away from the polarities of utopian or dystopian accounts, and by fine-grained qualitative inquiry, has reframed normative understandings both about gender and sexuality and concurrently, about the significant role of social media and digital technologies in the production of accessible public spaces. Emerging from scholarly engagements with queer and feminist theory, my program of research contributes significantly to the production of theory at the interdisciplinary intersections of critical and intersectional studies of gender, sexuality, and networked technologies. Making the crucial step away from both disembodied narratives of virtuality and humanist accounts of liminal subjectivities, this program of research charts new directions for sociocultural work in educational, curricular and post-colonial transfeminist media studies and queer bioinformatics.

**(b) Research or equivalent grants awarded (competitively (C) or non-competitively (NC))****TOTAL GRANTS OBTAINED COMPETITIVELY = \$2,069,396**

<b>Granting Agency</b>	<b>Subject</b>	<b>COMP</b>	<b>Total Awarded</b>	<b>Year</b>	<b>Principal Investigator</b>	<b>Co-Investigator(s)</b>
CIHR: Operating Grant	HPV Vaccination Discourses, Practices and Spaces: Impact On Youth's Bodies and Subjectivities	C	\$273,359	2012-2015	Genevieve Rail	<b>Mary Bryson</b>
CIHR: Operating Grant	Cancer's Margins and the Choreography of Knowledge	C	\$356,377	2012-2015	<b>Mary Bryson</b>	U Manitoba: Janice Ristock (Anthropology) Concordia: Genevieve Rail (Sociology) Ryerson: Tae Hart (Psychology) Dalhousie: Jacqueline Gahagan (Health) and Staff at 17 key stakeholder Collaborator organizations
CIHR: Operating Grant, Pathways to Equity	Cancer's Margins: Genders, Sexualities and the Queer Biopolitics of Access to Health Knowledge Mobilization	C	\$100,000	2012-2013	<b>Mary Bryson</b>	UBC: Blye Frank (Education), Caroline Haythornthwaite (School of Library and Information Science), Arminee Kazanjian (School of Population and Public Health), Shafik Dharamsi (Faculty of Medicine)

						U Manitoba: Janice Ristock (Anthropology) Concordia: Genevieve Rail (Sociology) Ryerson: Tae Hart (Psychology) Dalhousie: Jacqueline Gahagan (Health) Stanford: John Willinsky, (Education)
UBC Hampton Fund	The Social Architecture of Knowledge: Gender and Sexuality and the Biopolitics of Knowledge Mobilization	C	\$10,000	2010- 2011	<b>Mary Bryson</b>	John Willinsky, (Education, Stanford University), Arminee Kazanjian (School of Population and Public Health), Shafik Dharamsi (Faculty of Medicine)
UBC Humanities and Social Sciences (HSS)	Queer Futures: Disjuncture and Difference, and the Precarious Mobilities of Breast Cancer Knowledge	C	\$4,000	2009- 2010	<b>Mary Bryson</b>	John Willinsky
Canadian Institutes for Health Research (CIHR)	Health care practices and relationships: The experiences of queer women and primary care providers	C	\$293,874	2009- 2012	Lisa Goldberg (Department of Nursing, Dalhousie University) & Brenda Beagan (Occupational Therapy, Dalhousie)	<b>Mary Bryson</b> , Cressida Heyes (Department of Philosophy, University of Alberta)
Canadian Foundation for Innovation (CFI)	Learning Sciences and Technologies Research Lab	C	\$120,000	2008- 2010	Stephen Petrina (Curriculum, Education, UBC)	<b>Mary Bryson</b> , Brent Davis (Curriculum, Education, UBC)

Social Sciences and Humanities Research Council of Canada (SSHRC)	How We Learn: Technology Across the Lifespan	C	\$181,000	2006-2009	Stephen Petrina	<b>Mary Bryson,</b> Teresa Dobson (Language and Literacy in Education, UBC)
SSHRC, Standard Research Grant	Queer Women on the Net: Homing devices, mobility, and un/belongings	C	\$151,467	2004-2007	<b>Mary Bryson</b>	
UBC, Hampton Grant	e-Motion and New Media	C	\$45,000	2004-2006	Stephen Petrina	<b>Mary Bryson,</b> Teresa Dobson
SSHRC	Technology, Culture, Aesthetics	C	\$24,365	2004-2005	Teresa Dobson	<b>Mary Bryson,</b> John Willinsky
SSHRC-INE, Research Alliance, Letter of Intent	Development by Design: e-Capacity Building to Transform Teaching and Learning in the Digital Age	C	\$26,954	2002-2003	<b>Mary Bryson</b>	4 Universities 14 Researchers and 12 Corporate, Government and Community Partners
UBC, TLEF	Digital Studio	C	\$68,000	2001-2002	<b>Mary Bryson</b>	Linda Stanley Wilson (Curriculum, Education, UBC), John Willinsky, Rob Tierney (Language and Literacy Education, UBC)
UBC, TLEF	Digital Studio	C	\$100,000	2000-2001	<b>Mary Bryson,</b>	Ricki Goldman (Curriculum, Education, UBC), Linda Stanley Wilson, John Willinsky
B.C. Ministry of Education	New Technologies and Secondary Schools	C	\$10,000	1999-2000	<b>Mary Bryson</b>	Suzanne de Castell (Education, SFU), Stephen Petrina
SSHRC, Standard Research	Gender Equity and New Technologies: Making a Difference	C	\$150,000	1995-1998	<b>Mary Bryson</b>	Suzanne de Castell



Grant						
SSHRC	Women and New Technologies	C	\$5,000	1993-1994	<b>Mary Bryson</b>	Suzanne de Castell
Educational Technology Center	Primary Teachers and New Technologies	C	\$150,000 (2 yrs)	1990-1992	<b>Mary Bryson</b>	David Robitaille (Curriculum, Education, UBC)

TLEF = UBC Teaching and Learning Enhancement Fund

(c) *Research or equivalent grants submitted (indicate under COMP whether grants will be reviewed competitively (C) or non-competitively (NC))*

Granting Agency	Subject	COMP	Total Requested	Principal Investigator	Co-Investigator(s)
Gay and Lesbian Medical Assoc'n. (GLMA), Lesbian Health Fund	Knowledge Ecologies and the Politics of Difference: Gender and Sexuality and the Biopolitics of Knowledge Mobilization	C	\$10,000	<b>Mary Bryson</b>	John Willinsky (Education), and S. Lochlann Jain (Anthropology), Stanford University; Arminee Kazanjian (School of Population and Public Health, UBC), Shafik Dharamsi (Faculty of Medicine, UBC)

## 9. AWARDS AND DISTINCTIONS

(a) *Awards for Teaching, Scholarship, and/or Service*

July, 2013	UBC Academic Merit Award (for year 2012)
July, 2012	UBC Academic Merit Award (for year 2011)
July, 2011	UBC Academic Merit Award (for year 2010)
July, 2010	UBC Academic Merit Award (for year 2009)
July, 2009	UBC Academic Merit Award (for year 2008)

July, 2007	UBC Academic Merit Award (for year 2006)
July, 2006	UBC Academic Merit Award (for year 2005)
July, 2005	UBC Academic Merit Award (for year 2004)
July, 2004	UBC Academic Merit Award (for year 2003)
July, 2003	UBC Academic Merit Award (for year 2002)
July, 2002	UBC Academic Merit Award (for year 2001)
July, 2000	UBC Academic Merit Award (for year 1999)
July, 1999	UBC Academic Merit Award (for year 1998)
July, 1998	UBC Academic Merit Award (for year 1997)
July, 1997	UBC Academic Merit Award (for year 1996)
July, 1994	UBC Academic Merit Award (for year 1993)
July, 1993	UBC Academic Merit Award (for year 1992)
July, 1992	UBC Academic Merit Award (for year 1991)
July, 1991	UBC Academic Merit Award (for year 1990)

**(b) Other Awards**

<b>Award</b>	<b>Date</b>
Senior Research Fellowship, Michelle R. Clayman Institute for Gender Research, Stanford University	2010-2011
Pioneer in Technology and New Media, Wired Women Society, Canadian Women in the Spotlight	2000
UBC Scholar-in-Residence, Centre for Research in Women's Studies and Gender Relations	1997-1998
Doreen Kronick Award for "Outstanding Research on Learning Disabilities"	1990
SSHRC, Post-Doctoral Fellowship (awarded but declined)	1989-1990
Massey College, Junior Fellowship	1986-1989
SSHRC, Doctoral Fellowship	1986-1989
University of Toronto, Doctoral Fellowship	1985-1986

## 10. MAJOR INVITED PUBLIC LECTURES AND KEYNOTE PRESENTATIONS

1. Bryson, M. (2013). *Life Sentences: Cancer Knowledge, Gender, Sexuality and Intersectionalities*. Invited lecture presented as part of the National LGBT Cancer Summit. Memorial Sloan-Kettering Cancer Center, New York.
2. Bryson, M. (2012). *Cancer Knowledge in the Plural: Communicability of Presence, Trans/Media and the Queer Biopolitics of Prosthetic Mobilities*. Invited lecture presented as part of the Media(tions) Public Lecture Series. Wilfrid Laurier University.
3. Bryson, M. (2011). *Queering the temporality of cancer survivorship*. Invited paper presented at a meeting of Critically Interrogating Cancer Survivorship: Social Science And Humanities Perspectives conference, Vancouver, BC.
4. Bryson, M. (Nov., 2010). *Cancer Knowledge in the Plural: The Queer Biopolitics of "DIY" Health*. Principal's Lecture Series: Interdisciplinarity in Action. Green College, University of British Columbia.
5. Bryson, M., & Willinsky, J. (Nov., 2009). *Queer futures: Disjuncture and difference, and the precarious mobilities of cancer knowledge*. Invited lecture presented at a meeting of the Sexual and Gender Diversity conference (SVR). UQUAM, Montreal.
6. Bryson, M. (Oct., 2009). *Unthinking Modernity*. Invited Address at the Launch of the Institute for the Converging Arts & Sciences (ICAS) The School of Humanities and Social Sciences University of Greenwich, London.
7. Bryson, M. (Oct., 2009). *Neoliberal Governmentalities, Disjuncture and Difference in Millennial Queer Youth Narratives*. Invited Public Lecture in the Literatures of Modernity Distinguished Speakers Series, Ryerson University, Toronto.
8. Bryson, M. (June, 2009). *Can We Play 'Fun Gay'? : Disjuncture and Difference in Millennial Queer Youth Narratives*. Invited Public Lecture in the Critical Digital Studies Symposium, Pacific Center for Technology and Culture, University of Victoria, Victoria.
9. Bryson, M. (Apr., 2009). *Temporalities and Digitalities: On Disjuncture and Difference*. Invited Plenary Lecture to the Media in Transition 6 Conference, MIT, Cambridge, MA.
10. Bryson, M. (Oct., 2008). *Can We Play 'Fun Gay'? : Disjuncture and Difference in Millennial Queer Youth Narratives*. Invited Public Lecture to the Creating Resistance: Arts Practice/Political Praxis Symposium, University of British Columbia, Vancouver, BC, Canada.
11. Bryson, M. (Apr., 2007). *When Jill Jacks In: The Politics of Recognition*. Invited Public Lecture to the Green College Speaker Series, University of British Columbia, Vancouver, BC, Canada.

12. Bryson, M. (Mar., 2007). *Queer Theories and Virtualities*. Invited Public Lecture to the Simon Fraser University School of Interactive Arts and Technology Research Colloquium, Surrey, BC, Canada.
13. Bryson, M. (Nov., 2006). *Queer Virtualities and the Politics of Mis/Recognition*. Invited Public Lecture to the Pacific Center for Technology and Culture, Victoria, BC, Canada.  
<http://www.pactac.net/pactacweb/web-content/video55.html>
14. Bryson, M. (Nov., 2006). *When Jill Jacks in: Homing Devices and Queer Un/Belongings*. Invited Public Lecture to the Center for Women's and Gender Studies, University of British Columbia, Vancouver, BC, Canada.
15. Bryson, M. (Apr., 2005). *Cultural Historical Activity Theory, Media, and "Identity Projects"*. Keynote speaker at Cultural Historical Activity Theory SIG, AERA (American Educational Research Association), Montreal, QC, Canada.
16. Bryson, M. (Oct., 2005). *Media and Sexualities*. Invited Public Lecture to Inside/Out Lecture Series, University of Alberta, Edmonton, AB, Canada.
17. Bryson, M. (Jan., 2005). *Web Cam Girls*. Invited Public Lecture to Victoria Independent Film and Video Festival, Victoria, BC, Canada.
18. Bryson, M. (Apr., 2003). *Gender, Pedagogy, and New Technologies: Politically Articulate Strategies for Inhabiting the "Belly of the Monster"*. Keynote speaker at Greater Philadelphia Women's Studies Consortium, Temple University, Philadelphia, PA, U.S.A.
19. Bryson, M. (Mar., 2003). *Education, Media and Pedagogy*. Keynote speaker at Canadian Teachers Federation National Symposium on Education and New Information Technologies, Vancouver, BC, Canada.
20. Bryson, M. (Mar., 2002). *Teaching and Learning in the Digital Age*. Invited Public Lecture to University of Queensland, "Big Ideas in Education" Lecture Series, Queensland, Australia.
21. Bryson, M. (Mar., 2002). *Identity, Culture, and Digital Tools*. Invited Public Lecture to University of Western Sydney, Visiting Scholar Lecture Series, Sydney, Australia.
22. Bryson, M. (Apr., 2001). *Girls, Tools and Schools*. Keynote speaker at Women In Information and Trades Technologies (WITT), Banff, AB, Canada.
23. Bryson, M. (Mar., 2000). *Gender and New Information Technologies*. Keynote speaker at Women Work and Computerization, Vancouver, BC, Canada.
24. Bryson, M. (Oct., 1999). *Gender and the Digital*. Invited Public Lecture to University of Illinois, Chicago, U.S.A.

25. Bryson, M. (Mar., 1999). *Technology, pedagogy, politics*. Keynote speaker at Critical Visions of New Technologies in Education conference, University of Calgary, Calgary, AB, Canada.
26. Bryson, M. (Jan., 1999). *New Tools, New Practices?* Invited Public Lecture to Vancouver School Board, Vancouver, BC, Canada.
27. Bryson, M. (Nov., 1998). *Women and New Media*. Keynote speaker at Wired Women, Vancouver, BC, Canada.
28. Bryson, M. & de Castell, S. (Oct., 1998). *Girls, Tools, and Schools*. Keynote speaker at British Columbia Teachers Federation Status of Women convention, Vancouver, BC, Canada.
29. Bryson, M. (Aug., 1997). *Creating microclimates for girls' uses of new media: An ecological approach*. Invited Public Lecture to Noted Scholar Lecture Series, University of Auckland, Auckland, NZ.
30. Bryson, M. (Aug., 1997). *New technologies, gender, and schooling*. Invited Public Lecture to School of Education Research Colloquium, Waikato University, Hamilton, NZ.
31. Bryson, M. (May, 1997). *Girls, tools and schools*. Invited Public Lecture to BCTF Professional Issues seminar, Vancouver, BC, Canada.
32. Bryson, M. & de Castell, S. (Apr., 1997). *Retooling gendered play*. Invited Public Lecture to joint M.I.T. Media Lab and Women's Studies Conference, M.I.T.
33. Bryson, M. (Mar., 1997). *Equity, Gender and New Information Tools*. Invited Public Lecture to B.C. Library Association Policy Conference, Ottawa, ON, Canada.
34. Bryson, M. (Oct., 1995). *Pedagogical Inversions*. Invited Public Lecture to Women into the Year 2000 Public Lecture Series, Capilano College, North Vancouver, BC, Canada.
35. Bryson, M. (Nov., 1995). *Queer Pedagogy*. Invited Public Lecture to Center for Research in Women's Studies and Gender Relations Seminar Series, Vancouver, BC, Canada.
36. Bryson, M., (1992). *Queer Pedagogy: Praxis makes imperfect*. Keynote address presented at a meeting of the American Educational Research Association (A.E.R.A.), San Francisco, CA.
37. Bryson, M. (Jul., 1990). *Narratives of Educational Computing*. Keynote address presented at Voice/Text/Image: Education for a Post-Literate Culture, Simon Fraser University, Burnaby, BC, Canada.

# **11. REFEREED INTERNATIONAL AND NATIONAL SCHOLARLY CONFERENCE PRESENTATIONS**

1. Bryson, M. (May, 2012). *Cancer Knowledge in the Plural: The Queer Biopolitics of Cancer Health*. Invited Keynote Presentation presented as part of the Queer Studies in Education and Culture Conference, CSSE, Wilfrid Laurier University.

2. Bryson, M. (October, 2012). *Sexualities, Genders and Cancer Health: Communicability of Presence, Trans/Media and the Queer Biopolitics of Prosthetic Mobilities*. Paper presented at a meeting of the CIHR Gender, Sex and Health Conference, Montreal.
3. Bryson, M. (June, 2012). *Cancer Knowledge in the Plural: The Queer Biopolitics of "DIY" Health*. Paper presented at a meeting of the International Association for Cultural Studies (Crossroads) Conference. Universite de la Sorbonne, Paris.
4. Bryson, M. (2011). *Tracing online social networks and GLBTQ communities*. Paper presented at a meeting of the American Association of Anthropology (AAA), Montreal, QE.
5. Bryson, M. (2011). *Mapping affect and nomadic mobilities: The queer biopolitics of feeling cancer*. Paper presented at a meeting of the Association of Internet Researchers (AoIR), Seattle, WA.
6. Bryson, M. (2010). *Cancer Knowledge in the Plural: The Queer Biopolitics of Knowledge Mobilization*. Paper presented at a meeting of the Innovations in Gender, Sex and Health Research Conference, Toronto.
7. Bryson, M., & Willinsky, J. (2010). *Cancer knowledge in the plural: On the queer biopolitics of "DIY" health*. Paper presented at a meeting of the DIY Citizenship: Critical Making and Social Media Conference, Toronto.
8. Bryson, M. (2009). *Temporalities and digitalities: On disjuncture and difference*. Invited Plenary Lecture to the Media in Transition 6 Conference, MIT, Cambridge, MA.
9. Bryson, M. (2009). *Being difficult?: Imagining now the futures of critical Internet studies*. Paper presented at a meeting of the Association of Internet Researchers (AoIR), Milwaukee, WI.
10. Bryson, M. (2009). Can We Play 'Fun Gay'? Disjuncture and Difference in Millennial Queer Youth Narratives. Paper presented at a meeting of the Media In Transition conference, Cambridge, MA.
11. Bryson, M. (2007). *Defining the human in posthuman criticism*. Paper presented at a meeting of the Cultural Studies Association, Portland.
12. Bryson, M. (2007). *Virtually queer?: Mobility, and un/belongings in cyberspace*. Paper presented at a meeting of the Cultural Studies Association, Portland.
13. Bryson, M. (2006). *When Jill jacks in: Queer virtualities and the politics of mis/recognition*. Paper presented at a meeting of the American Educational Association (AERA), San Francisco.
14. Bryson, M. (2006). *Homing devices and queer un/belongings*. Paper presented at a meeting of the Canadian Society for Studies in Education, Congress of the HSSFC, York University, Toronto.
15. Bryson, M. (2005). *Homing devices? Media and the cultural production of queer (un)belongings*. Paper presented at a meeting of the Canadian Cultural Studies Association, University of Alberta, Edmonton.
16. Bryson, M. (2005). *Queer women and the Internet*. Paper presented at a meeting of the American Educational Association (AERA), Montreal.

17. Bryson, M. (2004). *When Jill jacks in: Queer women and the Net*. Paper presented at a meeting of the Association of Internet Researchers (AoIR), Sussex.
18. Bryson, M. (2004). *Sexualities and the Internet*. Paper presented at a meeting of the Canadian Women's Studies Association, Congress of the HSSFC, Winnipeg.
19. Bryson, M. (2004). *Virtually queer: Gender, sexuality and the Net*. Paper presented at a meeting of the American Educational Association (AERA), San Diego.
20. Bryson, M. (2003). *Between the body and the screen: Queer pedagogy, LGBT women and the Net*. Paper presented at a meeting of the American Association for the Advancement of Curriculum Studies (AAACS), Chicago.
21. Bryson, M., de Castell, S., & Jenson, J. (2001). *What do women want? Rethinking the digital*. Paper presented at a meeting of the Women In Information and Trades Technologies (WITT), Banff, Canada.
22. Bryson, M., & de Castell, S. (2000). *Object lessons: Critical visions of educational technology*. Paper presented at a meeting of The American Educational Sociology Association (A.E.S.A.), Vancouver, Canada.
23. Bryson, M., & de Castell, S. (2000). *Women, digital tools, and the culture of work*. Women Work and Computerization, Vancouver, Canada.
24. Bryson, M. (1999). *Representing gender in "girl-friendly" software*. Paper presented at a meeting of The American Educational Research Association (A.E.R.A.), Montreal, Canada.
25. Bryson, M., de Castell, S., & Jenson, J. (1998). *Creating microclimates for girls' uses of new media: An ecological approach*. Paper presented at a meeting of the Society for Social Studies of Science, Halifax, NS.
26. Bryson, M. (1998). *Out of the mouths of babes: Gender, identity, technology*. Paper at a meeting of Genders, technologies, machines, Duke University, Durham, NC.
27. Bryson, M. (1997). *"Don't ask, Don't tell": Research implications of gender differences and deviances*. Paper presented at a meeting of The American Educational Research Association (A.E.R.A.), Chicago, IL.
28. Bryson, M. (1997). *New technologies, gender, and schooling: Imagining teachers as Luddites in/deed*. Paper presented at a meeting of the Society for Social Studies of Science (Invited Session), Tucson, AZ.
29. Bryson, M. (1996). *The "management of spoiled identity": Career strategies for lesbian & gay academics*. Paper presented at a meeting of AERA, New York.
30. Bryson, M. (1995). *Inclusive education as deviance by design*. Paper presented at a meeting of the Bergamo Education Conference (JCT), Banff, Alberta.
31. Bryson, M. (1994). *New technologies/New practices? Teachers as Luddites in/deed*. Paper presented at a meeting of A.E.R.A., New Orleans, LA.
32. Bryson, M. (1994). *Theorizing queer narrativities*. Paper presented at A.E.R.A., New Orleans, LA.
33. Bryson, M. (1994). *Toward a critical analysis of educational technology narratives*. Paper presented at a meeting of A.E.R.A., New Orleans, LA.

34. Bryson, M. (1993). *Queer pedagogy: Voice/Agency/Identity*. Paper presented at a meeting of Queer Sites, Toronto, Canada.
35. Bryson, M. (1993). *Educational communities of practice and the im/possibility of authority*. Paper presented at a meeting of the Philosophy of Education Society (PES), New Orleans, LA.
36. Bryson, M. (1992). *Gender effects and new information technologies*. Paper presented at a meeting of the Australian and New Zealand Associations for Research in Education (AAHRE/NZRE) (Invited Electronic Salon Session), Geelong, Australia.
37. Bryson, M. (1992). *Gender effects in educational research: The state of the art*. Paper presented at a meeting of the F.W. Philosophy of Education Society (Invited Session), Asilomar, CA.
38. de Castell, S. and Bryson, M. (1992). *En/Gendering equity: Emancipatory programs or repressive regimes of truth*. Paper presented at a meeting of the Philosophy of Education Society, Denver, Co.
39. Bryson, M., (1992). *Queer Pedagogy: Praxis makes imperfect*. Paper presented at A.E.R.A. (Invited Address Session), San Francisco, CA.
40. Bryson, M. and de Castell, S. (1992). *Sexing the texts of educational technology*. Paper presented at a meeting of A.E.R.A., San Francisco, CA.
41. Bryson, M. and de Castell, S. (1991). *Modernist, critical and postmodern 'true stories' about educational technology*. Paper presented at a meeting of the F.W. Philosophy of Education Society, Berkeley, CA.
42. Bryson, M. (1991). *Gender equity, gender treachery: Three voices*. Paper presented at a meeting of the Bergamo Education Conference (JCT), Bergamo IL.
43. Bryson, M. (1991). *Writing and at-risk-learners*. Paper presented at a meeting of A.E.R.A., Chicago, IL.
44. Bryson, M. (1991). *Educational technology and reproduction theory*. Paper presented at a meeting of A.E.R.A., Chicago, IL.
45. Bryson, M. & de Castell, S. (1991). *Lesbian/Lecturer: An "untenable discursive posture"?*. Paper presented at a meeting of A.E.R.A., Chicago, IL.
46. Bryson, M. (1990). *School-based epistemologies*. Paper presented at a meeting of A.E.R.A., Boston, MA.
47. Lonka, K., & Joram, E. & Bryson, M. (1990). *Changing conceptualizations of knowledge and learning*. Paper presented at a meeting of A.E.R.A., Boston, MA.
48. Bryson, M., & Scardamalia, M. (1989). *Learning by doing, the hard way: Fostering reflectivity in the processes and products of adolescent writers*. Paper presented at a meeting of A.E.R.A., San Francisco, CA.
49. Bryson, M., & Shafir, U. (1989). *Post-failure reflectivity and learning in LD and normally achieving adolescents*. Paper presented at a meeting of the Society for Research in Child Development (S.R.C.D.), Kansas City.



50. Bryson, M., & Scardamalia, M. (1988). *M.U.S.E.: A computer-based learning environment for novice student-writers*. Paper presented at the meeting of the International Conference on Intelligent Tutoring Systems, Montreal.
51. Bryson, M., & Scardamalia, M. (1987). *Towards an understanding of the role of reflectivity and normally achieving children: A cognitively-based analysis*. Paper presented at the meeting of A.E.R.A., Washington.
52. Bryson, M., Lindsay, P., Woodruff, E., & Joram, E. (1987). *Computers as authoring tools*. Paper presented at the meeting of the International Conference on Computers and the Humanities (ICCH), Columbia, SC.
53. Bryson, M. (1987). *M.U.S.E.: A computer-based authoring environment for student-writers*. Paper presented at the meeting of the Educational Computing Organization of Ontario (ECOO), Toronto.
54. Bryson, M., & Siegel, L.S. (1986). *Oral and written narratives: The influence of channel on LD students' language production*. Paper presented at the meeting of the Canadian Psychological Association (CPA), Toronto.
55. Bryson, M., & Joram, E. (1986). *Word processing for average and gifted writers: attitudes and skills*. Paper presented at the meeting of the Educational Computing organization of Toronto (ECOO), Toronto.
56. Bryson, M., Lindsay, P.H., Joram, E.J., & Woodruff, E. (1986). *Augmented word processing: The influence of procedural facilitation and mode of production on the writing process*. Paper presented at the meeting of A.E.R.A., San Francisco.

## 12. CONFERENCE ORGANIZATION (PROGRAM CHAIR etc.)

2007 Association of Internet Researchers, Annual Conference (8.0), Advisory Committee

2005-2006 *Media and Public Culture Lecture Series*, Organizer, UBC (public lectures by Dr. Katherine Hayles, and Drs. Arthur and Marilouise Kroker)

2005-2006 *American Educational Research Association*, Chair (Queer Studies SIG)

2004-2005 *American Educational Research Association*, Chair (Queer Studies SIG)

2003-2004 Steering Committee, *Resolutions and Ruptures conference*, University of British Columbia; International gender and sexualities conference with 500+ participants that raised a profit of \$7400 that was donated to the UBC Library for acquisitions in this area – a process that I coordinated; Chair, Keynotes and Library Acquisitions committee and member of the Steering committee

1997-1998 *American Educational Research Association*, Chair (Queer Studies SIG)

1993-1994 *President's Lecture Series in Lesbian and Gay Studies*, co-Chair of organizing committee that negotiated funding for, and organized, a year-long series of public lectures (speakers included: Dionne Brand, Monique Wittig, Isaac Julien, Becki Ross, Tom Waugh, Daphne Marlatt, Deborah Britzman)

1992-1994 *American Educational Research Association*, Executive member (Lesbian and Gay Studies SIG)

1990-1991 *American Educational Research Association*, Chair, Division C (Literacy section)

1989-1990 *American Educational Research Association*, co-Chair, Division C (Literacy section)

### **13. SERVICE TO THE UNIVERSITY**

#### **(a) *University-level Service***

2009-2011 University-Wide *Interdisciplinarity Initiative Task Force*, University of British Columbia

2007-2008 *University of British Columbia Senate*, elected member, Faculty of Graduate Studies

2006-present Coordinating Committee, *Critical Studies in Sexuality program*, Arts, University of British Columbia, Member

2005-present *Access and Diversity Advisory Council*, University of British Columbia

2003-2004 Steering Committee, *Resolutions and Ruptures conference*, University of British Columbia

- International gender and sexualities conference with 500+ participants that raised a profit of \$7400 that was donated to the UBC Library for acquisitions in this area – a process that I coordinated; Chair, Keynotes and Library Acquisitions committee and member of the Steering committee

2000-2001 UBC *SSHRC Adjudication Committee*, Member

- Members of this committee assess and rank-order all the SSHRC scholarship and award proposals in Arts and the Social Sciences (~175), and participate in multiple lengthy meetings of the adjudication committee that forwards all the UBC SSHRC scholarship and award proposals to Ottawa.

1993-1995 *President's Lecture Series in Lesbian and Gay Studies*, co-Chair

- I co-chaired the organizing committee that negotiated funding for, and organized, a year-long series of public lectures (speakers included: Dionne Brand, Monique Wittig, Isaac Julien, Becki Ross, Tom Waugh, Daphne Marlatt, Deborah Britzman).

1992-1996 Lesbian and Gay Issues Committee, UBC Faculty Association, founding member and co-Chair

- I founded and co-chaired this committee that successfully secured same-sex spousal benefits for UBC employees. This committee then undertook the development of a proposal for an Arts Minor undergraduate program, which was approved by the UBC Senate (Critical Studies in Sexuality, CSIS). CSIS is currently a thriving program that most recently is the recipient of a major private donation to the University of British Columbia.

***(b) Faculty-level Service***

2012-Present Institute for Gender, Race, Sexuality and Social Justice (Faculty of Arts) (2 graduate programs, 1 Major and 2 Minors), Director

In July, 2012, I accepted the position of Director, Institute for Gender, Race, Sexuality and Social Justice (Faculty of Arts). The Social Justice Institute offers two undergraduate Minors, a Major, M.A. and Ph.D. programs in Gender, Race, Sexuality and Social Justice Studies, and a large complement of undergraduate and graduate courses. The Institute for Gender, Race, Sexuality and Social Justice is a degree-granting academic unit that exemplifies UBC's commitment to ensuring critical advances in knowledge, democratic communities, and equity in scholarship, research, and teaching. Scholars in the Social Justice Institute are engaged in innovative theoretical and empirical work that advances and enriches current knowledge and critical dialogue about culture, politics and public policy, locally, nationally and transnationally.

The Director of the GRSJ Institute is the Head of an academic unit, and chairs the Unit Meetings, the Departmental Standing Personnel Committee, the Hiring Committees as well as sitting as a member of all the GRSJ Unit committees and being responsible for Promotion, Tenure, Reappointment and all other staff and faculty management functions.

Since taking on this responsibility, I have focused most of my time and energy on the development and implementation of an administrative infrastructure for the GRSJ Institute, which is a new academic unit at UBC. In this process, I have paid close attention to how it is that the GRSJ Institute might be inclusive of Faculty of Education colleagues, and so with every new initiative, like the Social Justice @ UBC thematic research networks, I have made sure to design the initiatives so as to be inclusive of Education colleagues and to leverage our interdisciplinary links. One of the four newly funded GRSJ Institute Social Justice @UBC Networks is directed by Dr. Jan Hare (LLED, Education). <http://www.grsj.arts.ubc.ca/social-justice-ubc-networks/>

In thinking through the offer of the GRSJ Institute Directorship, I have emphasized the possibility for collaborative relationships and projects with Education and other faculties at UBC that prioritize Social Justice Studies. In 2013-2014 a significant part of my strategic planning will involve negotiations with the core social justice faculties at UBC, to join the GRSJ Institute as full partners. I have likewise significantly enhanced the membership of GRSJ Associate Faculty members to include multiple Education colleagues.

2007-2011 *Center for Cross Faculty Inquiry*, Faculty of Education (4 graduate programs, ~125 students), Director

- The Director of the Center for Cross-Faculty Inquiry (CCFI) is the administrative head of an academic unit that provides multiple graduate programs (PhD, MA and MEd) and is an institutional location in the Faculty of Education charged with the provision of interdisciplinary scholarly programming. The Director chairs the CCFI Advisory committee, serves as one of the unit Graduate Advisors, represents CCFI on all major Faculty of Education committees, provides liaison with the Faculty of Graduate Studies, and works with CCFI graduate student peer advisors and staff.

2007-2011 *Network of Centres and Institutes in Education*, Faculty of Education (9 Centres and 2 Institutes), Director

2007-present *Centre for Culture, Identity & Education*, Steering Committee, member

2006-2007 *Teacher Education Office Advisory Committee on e-Portfolios*, member

2004-2011 *Graduate Committee (GCAC)*, member

- Members of the GCAC committee participate in monthly three-hour meetings that involve extensive preparation, as the committee generates recommendations and proposals pertaining to all aspects of graduate programs and graduate studies in the Faculty of Education and is the location for the adjudication of all Curriculum Change proposals.

2004-2006 *OGPR Scholarships Committee*, member

- Members of the Scholarships Committee participate in several, three-hour meetings a year that involve extensive preparation pursuant to the review and adjudication of Education scholarship and award decisions.

2004-2006 *CCFI Advisory Committee*, member

- Members of the CCFI Advisory Committee participate in two, three-hour meetings a year that involve extensive preparation, as the first meeting is dedicated to a review of SSHRC/UGP proposals and the second, to a review and adjudication of admission files and scholarship decisions.

1995-1998 *Center for the Study of Curriculum and Instruction (now CCFI) Advisory Committee*, member

1992-1994 *Graduate Committee (GCAC)*, member

1991-1992 *Dean's Advisory Committee on Gender and Race Relations*, member

1991-1992 *Dean's Advisory Committee on Computers*, member

(c) ***Department-level Service***

2004-2007 *Graduate Programs, Department of Educational and Counseling Psychology and Special Education* (5 graduate program areas, ~ 450 graduate students), Director and Graduate Advisor

- As Graduate Advisor I was responsible for the provision of oversight for all graduate students in the ECPS department generally, liaison with the Faculty of Graduate Studies and implementation of University policies regarding graduate studies, adjudication of all scholarship and admissions files, preparation of all Curriculum Change proposals, participation in all review procedures, representation on Graduate Studies committees at the Faculty level

2004-2006 *Graduate Committee*, Chair

2004-2006 *Departmental Admissions Funding Committee*

2004-2007 *ECPS Council* (formerly, Policy and Procedures Committee)

2002-2004 *Human Development, Learning and Culture*, Graduate program Coordinator

- Program coordinators are responsible for admissions, scholarship adjudication, recruitment, new course proposal preparation and oversight, review of comprehensives and participation in all the major executive committees of the ECPS department. As coordinator, I chaired monthly Area Meetings and participated in the departmental graduate committee.

1999, *ECPS Website Development Committee*, Chair

- The ECPS Website Development Committee was charged with the task of redesigning the departmental website so as to represent the ECPS department effectively and accurately following the merger of EPSE and CNPS. During this period, there was no secretarial expertise in the area of website management and development. As Chair, I coordinated monthly meetings and undertook, personally, the reorganization of all of the files on the new website.

1998-1999 *Human Development, Learning and Culture* (graduate program in ECPS), Program Coordinator

1998-1999 *ECPS Advisory Committee*, member

1997-1998 *ECPS Departmental Standing Personnel Committee*, member

1996-1997 *ECPS Departmental Standing Personnel Committee*, member

1995-1998 *ECPS Comprehensives Standing Committee*, member

#### **14. SERVICE TO THE COMMUNITY**

##### **(a) *Executive leadership positions in scholarly societies, including offices held***

2005-2006 *American Educational Research Association*, Chair (Queer Studies SIG)

2004-2005 *American Educational Research Association*, Chair (Queer Studies SIG)

1997-1998 *American Educational Research Association*, Chair (Queer Studies SIG)

1992-1994 *American Educational Research Association*, Executive member (Lesbian and Gay Studies SIG)

1990-1991 *American Educational Research Association*, Chair, Division C (Literacy section)

1989-1990 *American Educational Research Association*, co-Chair, Division C (Literacy section)

**(b) Memberships on scholarly committees, including offices held**

2004-2005 *Technology Committee*, American Educational Research Association, Chair-Designate

**(c) Editorships**

2007-present, Editorial Board, *CTheory*

2006-present Advisory Board, *Media Tropes*

2004-2006 Associate Editor, *Journal of Gay and Lesbian Issues in Education*

**(d) Reviewer**

2005-2006 SSHRC, Review, member of year-long SSHRC-INE project mid-term committee

1992-present SSHRC, Review of Standard Research Grant proposals (2-4 proposals/year)

1991-present American Educational Research Association Annual Meeting proposal review (Div. C, Div. G, Qualitative SIG, Queer Studies SIG)

2007-present *Media Tropes* (manuscript reviews)

2004-present *New Media & Society* (manuscript reviews)

2004-present *Torquere* (manuscript reviews)

2003-present *Feminist Media Studies* (manuscript reviews)

2004-present *Pedagogies* (manuscript reviews)

2002-2004 *American Educational Research Journal* (manuscript reviews)

2002-2004 *Teaching Education* (manuscript reviews)

2000-present *International Journal of Qualitative Studies* (manuscript reviews)

1999-present *Mind, Culture and Activity* (manuscript reviews)

1999-2001 *Educational Theory* (manuscript reviews)

1996-present *Journal of Gay and Lesbian Studies in Education* (manuscript reviews)

1996-present *Canadian Journal of Education* (manuscript reviews)

1995-present *Journal of Educational Computing Research* (manuscript reviews)

1994-2000 *Exceptionality Education Canada* (manuscript reviews)

Queens McGill University Press (book manuscript reviews)

L. Erlbaum (book manuscript reviews)

Sage (book manuscript reviews)

Routledge (book manuscript reviews)

MIT Press (book manuscript reviews)

**(e) *External Reviewer for Promotion and/or Tenure and/or Canada Research Chair***

2011, CRC Tier One, External Reviewer, Political Science Department, University of Victoria

2010, Tenure and promotion review, External Reviewer, Comparative Media Studies Program, MIT

2009, Tenure and promotion review, External Reviewer, Department of Communications, Tulane University

2009, Tenure and promotion review, External Reviewer, Department of Sociology, Simon Fraser University

2008, Tenure and promotion review, External Reviewer, Department of Sociology, York University

2006, Tenure and promotion review, External Reviewer, School of Educational Policy and Leadership, The Ohio State University

2005, Tenure review, External Reviewer, Department of Sociology, Simon Fraser University

2002, Tenure and promotion review, External Reviewer, School of Curriculum, Teaching and Learning, Griffith University, Australia

**(f) *Other service to the community***

- 2012 Invited Curator of a segment of the Vancouver Queer Film Festival that focuses on the intersectional production of cancer with a Director-in-Attendance showing of Casper Wong's *The LuLu Sessions*. This important and innovative documentary will also be the focus of a participatory Dialogue with the Director session that will be made available to graduate students and emergent filmmakers.

- 2009-present As part of the CIHR-funded *Cancer's Margins Project*, I am working with multiple QLGBT community organizations, and cancer organizations, across five Canadian provinces (BC, MB, ON, QC, NS), to develop awareness, policy, and population-based interventions that take into account and contribute to, an intersectional analysis of cancer health, risk, resiliencies and culturally competent approaches to treatment and cancer survivorship, including: Halifax Sexual Health Center, Women's Health Clinic, Winnipeg, BC Cancer Agency, Northern Health, Prince George, BC, Breast Cancer Action, Montreal, Canadian Cancer Society, Canadian Breast Cancer Network, QMunity, Beatrice Hunter Cancer Research Institute, Réseau Québécois d'Action pour la Santé des Femmes, Nova Scotia Rainbow Action Project, Laparoscopic Institute for Gynecologic Oncology, Ovarian Cancer Canada, Canadian Women's Health Network, Rainbow Resource Center, Winnipeg, MB

- 2004-2006 I was a researcher and expert witness in a British Columbia Labour Relations Board (LRB) case (2004) and appeal (2006) concerning Academic Freedom, and the Intellectual Property (IP) rights of faculty pursuant to the design and authorship of online courses at the

University of British Columbia

(<http://www.caut.ca/en/issues/academicfreedom/marybryson.asp>). In ruling on the appeal (Feb., 2006), LRB Vice Chair G. J. Mullaly upheld the Dorsey 2004 Arbitration Award on all counts, reinforcing, in legal terms, the rights of faculty regarding their academic freedom and intellectual property rights in the domain of the development of online courses – a crucial arena for labour policy and rights given the ubiquitous informatization of curriculum.

- 2003-2006 Maintained and updated (and hosted) website for the B.C. Lesbian Researchers Network (<http://www.inqueery.net>)
- 2003-2004 Invited participant in think-tank and related activities and artifacts organized by Intel, Corporation, Education division, as an “expert on Education, Gender, Pedagogy” to work with teachers and college educators on the design of inclusive and educationally sound media-saturated learning environments.
- 2002-2003 Expert Witness brief, *Chamberlain v. Surrey District School Board No. 36*
- 2002-2003 ICT Committee, Canadian Teachers’ Federation and Canadian Council of Ministers of Education
- 2001-2002 *Information and Communications Technologies Cooperative Partnership*, Member. The Information and Communications Technologies Cooperative Partnership (<http://www.e-capacity.ca/>) included the major stakeholder groups that make up the public education system in British Columbia. During 2001, ICTCP developed a coherent strategy and plan for inservice. Members participated in monthly, two-hour meetings. This committee has facilitated the organization of a cooperative partnership of all provincial agencies addressing inservice education related to information and communication technologies in the K-12 education sector.
- 2001-2002 Women’s Television Network (WTV), Girls, Math, Science and Technology project
- 1999-2000 B.C. Teachers Federation *Technology Committee*
- 1998-1999 APEC Science and Technology *Experts Meeting on Gender. Science and Technology*, Manila
- 1997-1998 Evaluation of developmental appropriateness of children’s books for barristers, Arvay & Finlay, *Chamberlain v. Surrey District School Board No. 36*
- 1996-1997 *Kitkatla Public School*, Development of a culturally appropriate and gender inclusive Technology Plan
- 1994-1996 *Richmond School Board*, Development of gender-equitable curriculum in the area of educational technologies



**THE UNIVERSITY OF BRITISH COLUMBIA*****Publications Record*****SURNAME:** BRYSON**FIRST NAME:** Mary**MIDDLE NAME(S):** Kathleen**Date:** December 14, 2013**SUMMARY****Total Number of Publications:** 55**Refereed Publications:** 29**Books:** 1**Chapters:** 15**Non-refereed Publications:** 11**Total Number of Invited and Refereed Conference Presentations:** 85 (*see pp. 12-16*)**1. REFEREED PUBLICATIONS** (The names of graduate student co-authors are underlined.)**1. *Scholarly Journals***

1. **Bryson, M.**, & Stacey, J. (2013). Cancer knowledge in the plural: Queering the biopolitics of narrative and affective mobilities. *Journal of the Medical Humanities (special issue, Queer in the Clinic)*. 34(1), 197-212.
2. Stacey, J., & **Bryson, M.** (2012). Queering the temporality of cancer survivorship. *Aporia*. 4(1). 5-17.
3. Hermida, A., & **Bryson, M.** (2010). Complexities of networked media within the transitive spheres of globalization. *New Media & Society*. 12, 855-861.
4. **Bryson, M.**, & MacIntosh, L. (2010). Can we play 'Fun Gay'? Disjuncture and difference, and the precarious mobilities of millennial queer youth narratives. *International Journal of Qualitative Studies in Education*. 23(1), 101-124.
5. MacIntosh, L. & **Bryson, M.** (2008). Youth, MySpace, and the interstitial spaces of becoming and belonging. *Journal of LGBT Youth: The Interdisciplinary Quarterly of Research, Policy, Practice, and Theory*. 5(1), 133-145.
6. **Bryson, M.** (2006). New media and sexual subcultures: Critical perspectives on research problematics, possibilities, and practices. *Journal of Gay and Lesbian Issues in Education*, 3(4), 109-118.
7. **Bryson, M.**, MacIntosh, L., Jordan, S., & Lin, H.L. (2006). Virtually queer?: Homing devices, mobility, and un/belongings. *Canadian Journal of Communication*, 31(3), 791-815.
8. **Bryson, M.** (2005). Virtually queer: Conjuring the quotidian. *Journal of Gay and Lesbian Issues in Education*, 2(4), 83-92.

9. **Bryson, M.** (2004). When Jill jacks in: Queer women and the Net. *Feminist Media Studies*. 4(3), 239-254.
10. **Bryson, M.**, Petrina, S., **Braundy, M.**, & de Castell, S. (2003). "Conditions for Success"? Sex-disaggregated analysis of performance and participation indicators in technology-intensive courses in B.C. secondary schools. *Canadian Journal of Science, Mathematics and Technology*. 3(2), 185-194.
11. **Jenson, J.**, de Castell, S., & **Bryson, M.** (2003). "Girl Talk": Gender, equity, and identity discourses in a school-based computer culture. *Women's Studies International Forum*. 26(6), 561-573.
12. **Faber, S.**, de Castell, & **Bryson, M.** (2003). Renal failure: towards a sociocultural investigation of an illness. *Mind, Culture and Activity*. 10(2), 143-167.
13. **Bryson, M.** (2002). Me/no lesbian: The trouble with "troubling lesbian identities". *International Journal of Qualitative Studies in Education*, 15(3), 373-380.
14. de Castell, S., **Bryson, M.**, & **Jenson, J.** (2002). Object lessons: Towards an *educational* theory of technology. *First Monday*, 7(1), Available at: [http://www.firstmonday.org/issues/issue7\\_1/castell/index.html](http://www.firstmonday.org/issues/issue7_1/castell/index.html)
15. **Bryson, M.**, de Castell, S., & **Kobayashi, M.** (2001). Essay Review: Children's engagement in the world: A sociocultural perspective (A. Goncu). *Mind, Culture and Activity*, 8(4), 310-320.
16. **Thompson, S.**, **Bryson, M.**, & de Castell, S. (2001). Prospects for identity formation of lesbian, gay, or bisexual persons with developmental disabilities. *International Journal of Disability Development and Education*. 48(1), 53-65.
17. **Bryson, M.** & de Castell, S. (1998). New technologies, gender, and the cultural ecology of primary schooling: Imagining teachers as Luddites in/deed. *Educational Policy*, 12(5), 542-567.
18. **Bryson, M.** & Scardamalia, M. (1996). Fostering reflectivity in the argumentative thinking of students with different learning histories. *Reading and Writing Quarterly*, 12(4), 351-384.
19. **Bryson, M.** & de Castell, S. (1996). Learning to make a difference: Gender, new technologies, and in/equity. *Mind, Culture and Activity*, 2(1), 3-21.
20. Lonka, K., Joram, E. & **Bryson, M.** (1996). Conceptions of learning and knowledge. *Contemporary Educational Psychology*, 21, 240-260.
21. **Bryson, M.** & de Castell, S. (1995). A chip on her shoulder?: New technologies, gender and in/equity. *Women's Education*, 11(3), 15-23.

22. **Bryson, M.**, & de Castell, S. (1994). Telling tales out of school: Modernist, critical, and postmodern "true stories" about educational technologies. *Journal of Educational Computing Research*, 10(3), 199-221.
23. **Bryson, M.**, & de Castell, S. (1993). Queer pedagogy: Praxis makes im/perfect. *Canadian Journal of Education*, 18(2), 285-305.
24. **Bryson, M.** (1993). School-based epistemologies?: Exploring conceptions of what, how and why students know. *Learning Disability Quarterly*, 16(4), 299-315.
25. **Bryson, M.**, & de Castell, S. (1993). En/Gendering equity. *Educational Theory*, 43(4), 341-355.
26. Joram, E. Woodruff, E., **Bryson, M.**, & Lindsay, P. (1992). The effects of revising with a word processor on written composition. *Research in the Teaching of English*, 26(2), 167-192.
27. Joram, E., Lindsay, P., **Bryson, M.**, & Woodruff, E. (1990). Students' editing skills and attitudes towards word processing. *Computers and Composition: An International Journal* 7(3), 55-72.
28. Shafrir, U., Ogilvie, M., & **Bryson, M.** (1990). Attention to errors and learning: Across-task and across-domain analysis of the post failure reflectivity measure. *Cognitive Development*, 5, 405-425.
29. **Bryson, M.** (1987). Towards a cognitively-based analysis of the processes and products of reading disabled student-writers. *The Pointer*, 32(1), 24-28.

## **2. NON-REFEREED PUBLICATIONS**

### ***(a) Scholarly Journals***

1. **Bryson, M.** (2009). Adventures in deconstruction. *Educational Insights*, 13(2). Available: <http://www.ccfi.educ.ubc.ca/publication/insights/v13n02/intro/welcome.html>.
2. **Bryson, M.** (2009). Poetic inquiry as singular reason: Queer<y>ing measurement in virtue of the lesbian rule. *Educational Insights*, 13(3). Available: <http://www.ccfi.educ.ubc.ca/publication/insights/v13n03/intro/welcome.html>.
3. **Bryson, M.** (2007). To learn and to not know. *Educational Insights*, 11(3). Available: <http://www.ccfi.educ.ubc.ca/publication/insights/v11n03/intro/welcome.html>

4. **Bryson, M., & MacIntosh, L.** (2005). Review: "Getting it on online: Cyberspace, gay male sexuality, and embodied identity (John Edward Campbell). *New Media & Society*, 7(3), 425-428.
5. **Bryson, M., Petrina, S. & Weir, L.** (2005). Introduction to the special issue. *Workplace: A Journal of Academic Labor*, 7(1), 1-3.
6. **Bryson, M., & de Castell, S.** (1999). Review: Points of viewing children's thinking: A digital ethnographer's journey (Ricki Goldman-Segall). *Educational Technology Review*, 9, 31-34.
7. de Castell, S., & **Bryson, M.** (1992). Review: The new literacy: Redefining reading and writing in the schools (John Willinsky). *Historical Studies in Education*, 4(2), 344-348.

### **(b) Reports**

1. **Bryson, M.** (1993). *New technologies/New practices?" Teachers, machines and the cultures of Primary schooling*. Final report submitted to the Educational Technology Center (153 pp.), Victoria, BC: Ministry of Education.

### **(c) Multimedia and Digital Artifacts**

1. **Bryson, M.** (2009). Review: "Digital Media and Democracy: Tactics in Hard Times" (Megan Boler). *Resource Center for Cybercultural Studies*. Available: <http://rccs.usfca.edu/bookinfo.asp?BookID=439&ReviewID=635>
2. **Bryson, M.** (2007). *Adventures in Deconstruction: Field notes from a cancer battleground where queer life meets precarious life head on*. Weblog: <http://brys.wordpress.com/>.
3. **Bryson, M.** (2006). *ETEC 510: Design of Technology-Supported Learning Environments*. Online course: Original authored courseware materials, 175pp. <http://www.elearning.ubc.ca>.
4. **Bryson, M. & Hogan, M.** (2006). *Media bytes: Queer women on the Net*. Canadian Journal of Communication, 31(4). Video file and transcript.
5. **Bryson, M.** (2005). *Queer women on the Net*. Video produced for online dissemination of SSHRC research project findings. Script authored and directed by Bryson and video co-directed with Lorna Boschman. <http://www.ecps.educ.ubc.ca/research/mbryson.htm>.
6. **Bryson, M., & de Castell, S.** (1995). *Deviance by design: A queer pedagogy*. A 24 minute videotape that was screened at an annual meeting of the Bergamo conference (JCT, Banff, 1996) and at the University of Illinois, Chicago, School of Education Research Colloquium (1997).

## **3. BOOKS & BOOK CHAPTERS**

### **(a) Edited**

1. de Castell, S., & **Bryson, M.** (Eds.). (1997). *Radical in<ter>ventions: Identity, politics, and difference/s in educational praxis*. Albany, NY: SUNY Press.

**(b) Special Issues**

1. **Bryson, M.**, Petrina, S. & Weir, L. (Eds.). (2005). Academic freedom & IP rights in an era of the automation and commercialization of higher education: Special issue of *Workplace: A Journal for Academic Labor*, 7(1), 128 pp.

**(b) Chapters**

1. Stacey, J., & **Bryson, M.** (in press). Queering the temporality of cancer survivorship. In S. Ristovski-Slijepcevic & K. Bell (Eds.), *Critically interrogating cancer survivorship*. New York: New York University Press.
2. MacIntosh, L., Poyntz, S., & **Bryson, M.** (2012). Keyword: Internet. In N. Lesko & S. Talburt (Eds.), *Youth Studies: Keywords and movements* (pp. 213-219). New York, NY: Routledge.
3. **Bryson, M.**, MacIntosh, L., Jordan, S., & Lin, H.L. (2009). Queer theories, queer virtualities. In S. Tozer, A. Henry & B. Gallegos (Eds.), *Handbook of Research on the Sociocultural Foundations of Education*. New York: Routledge
4. **Bryson, M.**, MacIntosh, L., Jordan, S., & Lin, H.L. (2008). Virtually queer?: Homing devices, mobility, and un/belongings. In A. Kroker & M. Kroker (Eds.), *Critical Digital Studies Reader* (pp. 303-323). Toronto: University of Toronto Press.
5. **Bryson, M.**, & Gray, M. (2005). Lesbians and the Internet. In J. Sears (Ed.), *Sexualities, Education and Youth: An Encyclopedia* (pp. 437-440). Greenwood Publishing Group.
6. de Castell, S., **Bryson, M.**, & Jenson, J. (2001). Critical visions of educational technology. In B. Barrel (Ed.), *Technology, teaching and learning* (pp. 113-127). Calgary: Destelig.
7. **Bryson, M.** (2000). Guilt, shame, and teacher education. In L. Stone (Ed.), *Philosophy of Education Society Annual* (pp. 365-369). Champaign, IL: Philosophy of Education Society.
8. Goldman-Segall, R., Beers, M., & **Bryson, M.** (1999). How the construction and analysis of digital movies support theory-building. In P. Kommers & G. Richards (Eds.), *Proceedings of World Conference on Educational Multimedia, Hypermedia and Telecommunications* (pp. 1783-1789). Chesapeake, VA: AACE.
9. de Castell, S. & **Bryson, M.** (1998). Dystopia, dysphoria, and difference: Re-tooling gendered play. In H. Jenkins and J. Cassells (Eds.), *From Barbie to Mortal Combat: Girls and computer games* (pp. 232-261). Cambridge, MA: MIT Press.
10. **Bryson, M.**, & de Castell, S. (1998). Telling tales out of school: Modernist, critical, and postmodern "true stories" about educational computing. In M. Apple and H. Bromley (Eds.), *Education/Technology/Power: Educational computing as a social practice* (pp. 65-84). Albany, NY: SUNY Press.

11. de Castell, S., & **Bryson, M.** (1998). From the ridiculous to the sublime: On finding oneself in educational research. In W. Pinar (Ed.), *Queer theory in education*. Hillsdale, NJ: Lawrence Erlbaum.
12. de Castell, S., & **Bryson, M.** (1997). "Don't ask, Don't tell": Sexualities and their treatment in educational research, in W. Pinar (Ed.), *Curriculum: Toward new identities for the field* (pp. 233-251). New York: Garland Press.
13. de Castell, S., & **Bryson, M.** (1997). Identity, ethnography and the geopolitics of text. In J. Ristock & C. Taylor (Eds.) *Inside the academy and out: Sexualities and social action* (pp. 97-111). Toronto: University of Toronto Press.
14. **Bryson, M.**, & de Castell, S. (1995). Sexing the texts of educational computing. In J. Gaskell and J. Willinsky (Eds.), *Gender in/forms curriculum* (pp. 21-42). New York, NY: Teachers College Press.
15. **Bryson, M.**, & Scardamalia, M. (1991). Teaching writing to students at-risk for academic failure. In B. Means, C. Chelmer, and M. Knapp (Eds.), *Teaching advanced skills to at-risk students* (pp. 141-167). San Francisco: Jossey-Bass.
16. **Bryson, M.**, Bereiter, C. Scardamalia, M. & Joram, E. (1991). Going beyond the problem as given: Problem solving in expert and novice writers. In R. Sternberg and P. Frensch (Eds.), *Complex problem solving: Principles and mechanisms* (pp. 61-84). Hillsdale, NJ: Lawrence Erlbaum.
17. **Bryson, M.** (1988). MUSE: A computer-supported learning environment. *Proceedings of Intelligent Tutoring Systems Conference* (pp. 357-364). Montreal, QC: Canadian Society for Computational Studies of Intelligence.

6. **WORK IN PROGRESS (including degree of completion)**

**Bryson, M.** (50% complete). *Adventures in Deconstruction: Prosthetic selves, evocative objects, and paradoxical publics*. Book manuscript.

This is the 1<sup>st</sup> Affidavit  
of Mary Bryson in this case  
and was made on April 10, 2014

No. \_\_\_\_\_  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**BETWEEN:**

TREVOR JAMES LOKE

**PETITIONER**

AND

MINISTER OF ADVANCED EDUCATION OF BRITISH COLUMBIA

**RESPONDENT**

**AFFIDAVIT #1 OF MARY BRYSON**

Janes Freedman Kyle Law Corporation  
340 – 1122 Mainland Street  
Vancouver, BC V6B 5L1  
Telephone: 604-687-0549  
Attention: Karey M. Brooks, File No.: 1202-001



This is the 1<sup>st</sup> Affidavit  
of Preston Parsons in this case  
and was made on April 12, 2014

S-142908

No. \_\_\_\_\_  
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN

TREVOR JAMES LOKE

PETITIONER

AND

MINISTER OF ADVANCED EDUCATION OF BRITISH COLUMBIA

RESPONDENT

**AFFIDAVIT #1 OF PRESTON PARSONS**

I, PRESTON PARSONS, of the City of Vancouver, in the Province of British Columbia, MAKE  
OATH AND SAY AS FOLLOWS:

1. I am an openly gay, practicing lawyer in Vancouver, and co-chair of the British Columbia Branch of the Canadian Bar Association Sexual Orientation and Gender Identity Conference (SOGIC) and as such have personal knowledge of the matters hereinafter deposed to, except where they are stated to be made on information and belief, and where so stated I believe them to be true.
2. I am 29. I live in Vancouver. I am an associate at Overholt Law and practice labour and employment law. Overholt Law is a firm of 5 lawyers. I am the only openly gay member of the firm.

This is Exhibit "I" referred to in the  
affidavit of... Tracy Tso  
sworn before me at... Vancouver  
this... 16 day of... January... 2015

  
A Commissioner for taking Affidavits  
for British Columbia



### **Family Background**

3. I was raised on my family's homestead, a third generation farm in McLaughlin, which is a small farming community in Alberta near Lloydminster. My mother and father are both farmers and have been married for 32 years. My sister is a registered nurse in Edmonton.
4. When I was not attending school, I trained in figure skating and spent a significant amount of time working on our family farm.
5. My parents were very active in our community and were chosen as the recipients of the 2011 County of Vermilion River "Agriculture Producer of the Year" award. My father acted on the board of the old Alberta Wheat Pool and spent several years on the Paradise Valley Seed Cleaning Plant Board. He was also President of the Rural Crime Watch Board and a board member of the Alberta Provincial Rural Crime Watch.
6. Growing up, my family was very active in the Lutheran Church, which we attended weekly. When I was 13, we switched to the United Church so that we could attend with my grandmother. From ages 9 to 14, I spent part of my summer at a Pentecostal Bible camp. From ages 15-17, I volunteered for a week each summer as a United Church Bible Camp counsellor.
7. Although I do not attend church regularly now, I continue to hold many Christian beliefs informed by the Lutheran, Pentecostal and United Churches. I continue to attend church with my family when I am home, and have done so with partners who wanted to attend.

### **School History**

8. I went to E.H. Walter School in Paradise Valley. E.H. Walter offers classes from kindergarten to Grade 12. At the time of my high school graduation in 2003 it had approximately 140 students. My graduating class had 15 students.
9. Given the small size of our school, we did not have any elective courses. However, during my last two years of high school we were allowed to take a distance education course during our spare period. I chose to take a course in law and it ignited my passion for legal issues. I knew from then on I wanted to be a lawyer. I was drawn to a career in

law because I saw that the world had shades of grey when my prior worldview had been fairly black and white. I saw the way the law could shape society and thought I could make a difference. I also thought it would provide employment and financial security.

10. My grade average coming out of high school was in the high 80%s.
11. I did not openly identify as gay in high school. At the time I graduated high school I identified as heterosexual, as I was still reconciling my sexual orientation with my religious beliefs. I am not aware of anyone in my high school identifying as gay or lesbian.
12. After high school, I attended Lakeland College in Lloydminster. I enrolled in the University Transfer program with plans to complete a Bachelor of Commerce at the University of Alberta. At the end of my first year, however, the College partnered with Athabasca University to enable students to obtain Bachelor of Commerce degrees. I switched to that process and graduated from Athabasca University in 2007 with a Bachelor of Commerce degree.

### **Coming Out**

13. I knew from a young age that I was gay, but I struggled with that identity given my religious upbringing and the community in which I was raised. I did not know any people who were lesbian, gay, bisexual or transgender (LGBT) and had only heard of them referred to in jokes. I told myself that I was heterosexual and maintained that façade, hoping one day I would become straight.
14. I did not have a boyfriend until I started College. My first boyfriend had similar religious beliefs to me and we bonded over our shared struggles to accept our identities. We split up at one point because we believed that we could not reconcile our religious beliefs and stay together at the same time. We later resumed a dating relationship.
15. I specifically waited to discuss any of my feelings about my sexual orientation until I had moved out of our family home. I was worried about the repercussions of my parents learning I was gay.

16. Universities can be a place where gay and lesbian students feel comfortable being themselves. This can be especially important for LGBT students who have unsupportive families. In my experience, it depends on the school. While Lakeland College was generally a warm and welcoming environment, I was unaware of any students who were openly gay or lesbian.
17. I came out to my family after the end of my 11-month relationship with my first boyfriend. I was almost 20 and in my second year at college. My mother, who did not know about the relationship, initiated the conversation. She told me that while I might be fooling everyone else by pretending to be happy, she knew that something was wrong. She was right. I felt tortured by having to conceal my identity, but I was also terrified of what might happen if I disclosed it. Since my entire first relationship was hidden from all but 3 or 4 friends, I had few people to turn to for support at the breakdown of the relationship.
18. As it turned out, my fears about my immediate family's reactions were unfounded. Although it took them some time to reconcile my sexual orientation with their religious beliefs, they all reassured me that being gay would not change my relationship with them or how much they loved me.
19. News that I was gay spread quickly in my small community and people reacted in different ways. Most of my friends, many of whom are very religious, were supportive. I believe that my parents' stature in the community helped. For example, my parents were chosen to address my high school graduating class. Also, my friends sought out personal relationships with my parents. However, some people at the Church we then attended started to walk down a different aisle from me. Some of my extended family became distanced and awkward around me. My parents and I made the decision not to share the fact I was gay with my remaining grandparents. We were very concerned they would react badly.
20. Although some people reacted poorly to me being out, it was a relief not to have to hide my identity. The coming out process was difficult as these conversations are not easy to have, particularly with friends who hold strong and differing religious beliefs, I

developed a growing internal sense of peace with each person I told. On balance, I believe the benefits of coming out and living my life openly and honestly with my loved ones and myself about my true identity exceeded any negative fallout from the announcement.

### **Registering for the Law Society Admission Test**

21. In my experience, people in our society are often assumed to be straight until they say otherwise. I am often asked whether or not I have a girlfriend or a wife, for instance. From my experience, I can say that LGBT people are often faced with the difficult choice between staying in the closet and dealing with the personal toll that takes or choosing to live openly and being vulnerable to potentially awkward interactions and blatant homophobia. After I decided to be open about being gay, I have been more aware of how the fact of being openly gay can create different pressures and considerations for a person in almost any context.
22. For instance, when I registered with the Law School Admission Council (“LSAC”) to complete the Law School Admissions Test (the “LSAT”), applicants were asked to fill out a profile form indicating, among other things, whether they would choose to self-identify as a member of the LGBT community. The LSAC website provides information to LGBT persons about this requirement. Using the “Way Back Machine” internet archive service I recovered the LSAC webpage for the information available for LGBT applicants in 2006 and have attached that information to my Affidavit as **Exhibit “A”**, along with the information for LGBT applicants from the current website.
23. I was initially taken aback by the LSAC’s question of applicants to choose whether to identify as LGBT and wondered about its relevance. On the LSAC website, there was a page for information for LGBT applicants with links to resources that LGBT applicants may want to review and consider. Among the resource materials was a video for purchase called “OUTlooks” which had specific advice about different topics including whether to come out on your application or not. I purchased the video and considered its contents along with the other webpages devoted to LGBT applications on the LSAC website. In the video, the students, professors, admissions personnel and lawyers who were

interviewed emphasized that diversity is important and key to the law school atmosphere. The interviewees recommended that if you are wondering whether or not a school is LGBT-friendly to look at factors such as whether or not they have an LGBT student group or offer courses related to LGBT legal issues. The video also discussed whether to come out when you are leaving law school to apply for jobs.

24. Today the LSAC website has a series of videos relevant to LGBT applicants and students that are publicly available including: “Coming Out on Your Application”; “Choosing an LGBT-Friendly Law School”; “Being out in Law School”; “Being Transgendered in Law School”; and “Being Out at Work” (see Exhibit “A”).
25. I understood at the time I was applying that such materials were being provided to LGBT applicants to address their concerns about being able to be who they are in law school and in the legal profession, and to make them aware of the experiences of LGBT law students and lawyers in various contexts. These concerns were very real for me given my experiences up to that time. I did not know many lawyers and did not know any LGBT lawyers. The fact that these resources were available was both encouraging and highlighted to me that being honest about who I was in law school and the legal profession could have adverse consequences for my professional life.
26. After reviewing all of the materials and considering the input of my friends and family, I decided to self-identify as a member of the LGBT community on the LSAC form. I decided that if a law school would deny my application on the basis of my LGBT status taken from my profile, then it was a school I would not want to attend.

### **Applying to Law School**

27. I earned high grades in college (averaging 98.5%) and scored well on the LSAT. As a result I was fortunate to have some choice about where to go to law school, despite the highly competitive nature of the law school admission process.
28. It was important to me to choose a school that welcomed LGBT students. Having grown up in an area where being LGBT was not considered a positive attribute, I wanted to ensure that I would be attending a law school where I would be able to be comfortable

with myself. To assist me in making that decision I referred to the LSAC LGBT Survey Results to assist my decision. Every other year, the LSAC surveys its member law schools on matters important to LGBT applicants. For example, it asks whether law schools have:

- a. a non-discrimination policy that prohibits discrimination on the basis of sexual orientation or gender identity;
  - b. any LGBT student organizations;
  - c. any openly LGBT faculty;
  - d. any openly LGBT administrators;
  - e. any courses primarily focused on LGBT legal issues;
  - f. any form of domestic partnership benefits to faculty, staff or students.
29. Using the “Way Back Machine” internet archive service, I was able to recover the LGBT survey results from 2005, which were included in a general information package for LGBT law school applicants. I have attached that information package to my Affidavit as **Exhibit “B”** along with the LSAC LGBT survey results from 2012.
30. I chose to attend UBC law school. Before I made my decision, my father and I visited Vancouver. When we were downtown, I was excited to see “Xtra Vancouver,” an LGBT biweekly newspaper for Vancouver’s gay and lesbian community, available on the street newsstands. My father could not understand why I was so excited about a newspaper. Later that evening, he told me he had been thinking further about my reaction. He told me he realized how difficult it must have been for me to be gay in our small town in Alberta. I was touched by this thoughtful reflection. I also realize how straight people may take for granted that their reality, including their sexuality, is constantly reflected back to them and affirmed as normal. It is important for LGBT people to feel a sense of belonging and see versions of our realities too.

### Attending Law School

31. I attended UBC Law School in Fall 2007 and graduated in Spring 2010.
32. I had a very positive law school experience. I found that UBC Law was committed to ensuring a welcoming environment for its diverse population. For example, I was both a member of Outlaws and the Christian Law Student Association.
33. Outlaws is the Queer Student Association. The term 'queer' is understood within the LGBT Community as a larger umbrella term including sexual and gender identities such as persons who are lesbian, gay, bisexual, and transgender, among others. Outlaws' mandate is to promote a queer-positive learning environment and to raise issues of interest to the queer community. Everyone is welcome as a member. Outlaws offers guest lectures on queer legal issues (such as hate crimes, HIV and the law and transgender rights), panels on being "out in the profession", informal drinks with faculty, and Friday afternoon "queer-ups" complete with drag performers. Starting in 2007, Outlaws partnered with the Law Students' Legal Advice Program ("LSLAP") to develop a legal clinic for low-income members of the queer community. I participated in this clinic during my time at law school. Attached as **Exhibit "C"** is information obtained from Outlaws' website about their organization.
34. The Christian Law Student Association ("CLSA") describes its mission to be "a service-oriented community of law students putting their faith into action." It supports this mission through: "service – by showing God's love to the greater community; community – by supporting and encouraging each other as we struggle as law students; and faith in action - integrating our faith into our professional lives." CLSA activities include: a mentorship program, a legal buddy program, service projects, prayer services, speakers and social activities. I was a member of the CLSA listserv and kept apprised of the CLSA's activities on campus. Attached as **Exhibit "D"** is information about CLSA obtained from its website.
35. I felt a sense of belonging in both Outlaws and the CLSA.

36. I was very involved in other aspects of law school life. I received the 2008 Pozer Award for outstanding contribution to LSLAP and its clients. I competed in the 2008 UBC Peter Burns Mock Trial Moot, and was temporarily articulated with the Provincial Crown in Winter 2009. I received a Small Claims Mediation Certificate in Fall 2009, and was selected as a Provincial Court Judicial Law Clerk for Surrey and Downtown Vancouver in Winter 2010.
37. I was chosen by my peers as valedictorian for my graduating class. As an openly gay law student, I was especially honoured that my class selected me. Having an openly gay valedictorian may not have been a big deal in Vancouver, to UBC Law, or to many of my classmates, but to me it was a very big nod of acceptance that I never would have expected a few years earlier. It was a big deal for me to bring a male date on the night of my speech.

### **Applying for Articles**

38. The fact that I was gay surfaced again when I applied for summer articles during my second year at UBC in the fall of 2008. UBC Law's career counselling office reviewed my resume and offered advice on how to best present myself. They told me that they fully support me and had "nothing against me being gay," but that given their role as career counsellors, they had to discuss how the activities listed on my resume (Outlaws, for example) would very likely "out" me to law firms. I was told the effect of this might be that I would not be considered on my merits by a firm reviewing my materials who had stereotypes and prejudices towards LGBT people. I appreciated their concern and based on my years of experience at UBC Law I knew that they addressed me as they did because they genuinely cared.
39. In considering that advice, I decided, again, to keep those activities listed. This was based on the same rationale that influenced me to self-disclose on the LSAC Form: that if a firm did not want me because I was gay, that was not a place I wanted to work. By keeping this information on my resume, I was screening them just as they were screening me.



40. However, this advice reinforced my knowledge that some law firm environments were not welcoming for LGBT lawyers. I reached out to my LGBT network and asked for opinions on whether the firms I was applying to and was interviewing at were gay-friendly. Partly based on that information, I cancelled one of the 10 interviews I had scheduled.
41. I ultimately articulated at Bull Housser & Tupper. In my second interview at that firm I was asked whether I had any questions for them. Some LGBT colleagues had advised me to ask tough questions about firms' cultures. Heeding their advice, I asked the interview team whether the firm was welcoming to gay lawyers. I was invited to speak to an openly gay partner who told me that in his 22 years of practice I was the first student to "openly come through these doors" as a gay law student. He knew it was important to have strong mentors and said that if I experienced anything negative at the firm in relation to my identity, he would personally deal with it. I never experienced anything negative with respect to being gay throughout my articles at Bull, Housser & Tupper. My articling experience was very positive.

### **The Legal Profession**

42. I was called to the bar in September 2011. I have been blessed to work with leading lawyers since that time, at both a boutique class action litigation firm and my current office, Overholt Law.
43. The Canadian Bar Association has established a Sexual Orientation and Gender Identity Conference ("SOGIC") as the home for LGBT lawyers within the profession. SOGIC's work includes making submissions to government with respect to legislative reform regarding LGBT rights, identifying and advocating CBA national policy positions on LGBT legal issues, serving as a resource for law students and lawyers who are not yet comfortable coming out, and organizing continuing legal education programs on sexual orientation/ identity and other LGBT legal issues.
44. I have been involved with SOGIC since June 2009. Most recently, I have held one of two Co-Chairs positions of the British Columbia section for the past three terms.

45. I enjoy being a part of SOGIC for many reasons, one being that it gives visibility to members of the profession who have been an invisible minority. Without such a voice in the legal profession, it would be easy for members of the profession, who are not LGBT, to overlook the unique concerns and realities for LGBT persons in the profession.

**Diversity in the Legal Profession**

46. In my personal experience, and as a member of Outlaws and SOGIC, I am aware that certain members of the legal profession are not receptive to LGBT people. Law societies have acknowledged the under-representation of many groups is a continuing problem and have taken steps to increase diversity. This commitment is reflected by a recent amendment to the Law Society of British Columbia's annual practice declaration.
47. The practice declaration gives members the option of self-disclosure of demographic information, including whether or not you identify as LGBT. In asking the question, the Law Society confirms its commitment to enhancing equity and diversity in the legal profession in BC and states the purpose of the question is to "understand more about the demographics of the legal profession to help identify any arbitrary barriers to entry and advancement". Attached as **Exhibit "E"** to my Affidavit is the Law Society of British Columbia Equity and Diversity Advisory Committee Year End Report to Benchers, December 2012, which sets out the approved wording to the law demographics question on the annual practice declaration.
48. Numerous studies by law societies, bar associations and academics have been published on underrepresentation of and barriers to marginalized groups. For example:
- a. In 1998, the Advocate published an article on the pattern of racial discrimination in the Law Society of British Columbia's history. It is titled "A History of Exclusion: The Treatment of Minorities by the Law Society of British Columbia in Admissions to the Legal Profession". A true copy of that article is attached as **Exhibit "F"** to my affidavit.

- b. In April 2000, the Law Society of British Columbia issued a report titled “Addressing Discriminatory Barriers Facing Aboriginal Law Students and Lawyers”. A true copy of that report is attached as **Exhibit “G”** to my affidavit.
- c. In 2001 the Windsor Yearbook of Access to Justice published an empirical study of the demographic representation of women, aboriginal people and visible minorities in law school admissions, titled “Law Students, Law Schools, and their Graduates.” A true copy of that article is attached as **Exhibit “H”** to my affidavit.
- d. In June 2012, the Law Society of British Columbia published a study on the under-representation of minorities in the legal profession. It is titled “Towards a more representative legal profession: Better practices, better workplaces, better results”. A true copy of that report is attached as **Exhibit “I”** to my affidavit.
- e. In April 2010, the Law Society of Upper Canada published a report on the changing demographics of lawyers in Ontario. It is titled “Racialization and Gender of Lawyers in Ontario.” A true copy of that report is attached as **Exhibit “J”** to my affidavit.
- f. In April 2013, the Law Society of Upper Canada studied the issue of retention in the profession, particularly the retention of women, and issued a report titled “Leaving Law and Barriers to Re-Entry: A Study of Departures from and Re-entries to Private Practice”. A true copy of that report is attached as **Exhibit “K”** to my affidavit.
- g. Similarly, in July 2009, the Law Society of British Columbia prepared a report titled “The Business Case for Retaining and Advancing Women Lawyers in Private Practice”. A true copy of that report is attached as **Exhibit “L”** to my affidavit.
- h. A study of gender discrimination in the profession was conducted in 1991 for the Law Society of Alberta, and was analyzed in an article titled “Bias in the Legal Profession: Perceptions and Experiences”. A true copy of that article is attached as **Exhibit “M”** to my affidavit.

- i. In January 2004, the Alberta Law Foundation commissioned a report to examine what has changed since the 1991 study. It is titled “Final Report on Equity and Diversity in Alberta’s Legal Profession. A true copy of the report is attached as **Exhibit “N”** to my affidavit.
  - j. In 1990, the Law Society of Alberta surveyed inactive members of the law society to examine their reasons for leaving the practice of law. It focused on the phenomenon that women leave the practice of law in greater proportion than men. The results were reported in an article titled “Leaving the Practice of Law: the Wherefores and the Whys”. A true copy of this article is attached as **Exhibit “O”** to my affidavit.
  - k. In 2008, legal historian and criminologist Joan Brockman published an article summarizing the legal profession’s failure to achieve racial diversity. It is titled “Racism and Legal Culture: Is there room for diversity in the legal profession”. A true copy of the article is attached as **Exhibit “P”** to my affidavit.
  - l. Charles Smith and Shelina Neallani also wrote articles on the legal profession’s lack of racial diversity in 2008 and 1990 respectively. True copies of those articles are attached as **Exhibit “Q” and Exhibit “R”** to my affidavit.
49. I note that both the above-exhibited 1991(Exhibit “L”) and 2004 (Exhibit “M”) reports from Alberta remark that small numbers of subjects reported discrimination on the basis of sexual orientation. These small numbers, the authors said, suggest that gay and lesbian lawyers do not, for the most part, reveal their sexual orientation for fear of discrimination. They are consequently underrepresented in the studies.
50. A study entitled Sexual Minorities in the Legal Profession in Canada, the first study to address sexual minorities specifically, was launched in the fall of 2013 by five Canadian professors. SOGIC had a part in the creation and formation of that study. The results are not expected until 2015. Attached as **Exhibit “S”** to my Affidavit is a description of the study and the research team.

### **Diversity in the Judiciary**

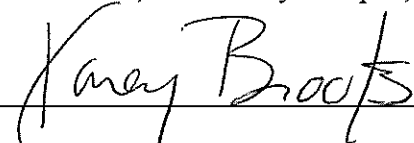
51. I also understand that there has been commentary on the lack of diversity in the Canadian judiciary. For example:
- a. A letter from the Chief Justice of the British Columbia Provincial Court observing the need for more diversity in judicial appointments is attached to my affidavit as **Exhibit “T”**.
  - b. In 2003, Joan Brockman published a study discussing the gender and racial diversity on the bench. An article titled “Aspirations and Appointments to the Judiciary”. A true copy of that article is attached to my affidavit as **Exhibit “U”**.
  - c. A 2000 article by Richard Devlin et al. presents a demographic profile of Canadian judiciary. It is titled “Reducing the Democratic Deficit: Representation, Diversity and the Canadian Judiciary, or Towards a “Triple P” Judiciary”. A true copy of that article is attached to my affidavit as **Exhibit “V”**.
  - d. Two articles published by the Ontario Law Reform Commission discuss how to improve minority and gender representation on the bench. They are titled “Gender Representation in the Canadian Judiciary” and “Promoting Heterogeneity of the Judicial Mind:’ Minority and Gender Representation in the Canadian Judiciary.” True copies of these articles are attached to my affidavit as **Exhibit “W”** and **Exhibit “X”**.

### **Concerns with Trinity Western University’s Law School Admission Policy**

52. I understand that to be admitted to TWU’s law school, students are required to sign a Community Covenant, a true copy of which is attached as **Exhibit “Y”** to my Affidavit. The Community Covenant requires, among other things, that students abstain from “sexual intimacy that violates the sacredness of marriage between a man and a woman.”
53. I support the existence of a Christian law school. However, I am concerned about any law school that requires students, as part of a mandatory covenant, to abstain from same-sex intimacy, whether the student is married or not.

54. I would not be able to sign the Covenant. Requiring such a restriction is an affront to my personal dignity. Same-sex intimacy is fundamentally intertwined with my identity. To uphold such a commitment would be to stripe me of a core aspect of my identity. It also institutionalizes shame about my identity and does not reflect my views on the Christian faith. I could only attend the school if I accepted I was flawed according to their particular viewpoint on the issue.
55. I am concerned about the creation of a law school that would create a condition for entry that would bar students like me from being able to attend without fraudulently swearing an official law school document at the risk of expulsion and betraying my own core identity to myself and others. If I were applying for law school, I would consider TWU's law school a viable option for me if:
- a. law students were exempted from signing the Covenant, or
  - b. the Covenant were amended for law students in a way that preserves its aspiration to be a faith-based school, but does not exclude or demean students who do not share the faith or its teaching regarding sexuality.
56. I am aware that on April 11, 2014, the Law Society of British Columbia approved the proposed law school at TWU for the purposes of the Law Society's admission program. Attached as **Exhibit "Z"** to my Affidavit is a true copy of the Law Society's News Release dated April 11, 2014.

SWORN before me at the City of Vancouver, in the Province of British Columbia, this 12 day of April, 2014.



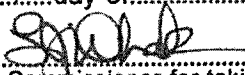
A Commissioner for taking affidavits  
for British Columbia



PRESTON PARSONS

**Karey M. Brooks**  
Barrister & Solicitor  
340 - 1122 Mainland Street  
Vancouver, BC V6B 5L1  
(604) 187-0549

This is Exhibit "J" referred to in the  
affidavit of Tracy Tse  
sworn before me at Vancouver  
this 1<sup>st</sup> day of January 2015

  
A Commissioner for taking Affidavits  
for British Columbia



This is the 1<sup>st</sup> Affidavit  
of Trevor James Loke in this case  
and was made on April 11, 2014

No. S-142908  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**BETWEEN:**

TREVOR JAMES LOKE

**PETITIONER**

**AND**

MINISTER OF ADVANCED EDUCATION OF BRITISH COLUMBIA

**RESPONDENT**

**AFFIDAVIT #1 OF TREVOR JAMES LOKE**

I, Trevor James Loke, Vancouver Park Board Commissioner, of Vancouver, British Columbia,  
MAKE OATH AND SAY THAT:

1. I am the Petitioner herein, and as such have personal knowledge of the matters hereinafter deposed to, except where they are stated to be made on information and belief, and where so stated I believe them to be true.
2. I grew up in Surrey, British Columbia. My mother is a retired interior designer. My father works at YVR as a ramp agent.
3. I am 25.
4. I am gay. I have been in a common-law relationship with my partner Joel for 4 years.



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5. I have known that I was gay since I was about 15. At the time I struggled with my identity and talking about my sexuality. I didn't feel like I had a safe space to talk about who I was. I ran away from home and stayed with my aunt and friends. I later moved back home with my parents.
6. I came out to my parents when I was 17. They were shocked at first. They didn't understand what my sexuality meant, or why I was gay. They had a lot of questions and misconceptions. But I felt free, like there was a weight off my shoulders, and I felt like myself. After around a year, they came around. They have always been very proud of me; it just took them a while to realize they could still see me as me. Over the course of the following months, I came out to the people who are close to me. It is important to me to be able to be open about who I am.
7. I am public about my sexuality because of my role in public life. In my experience, coming out as gay happens continuously, sometimes by my own choice, sometimes by people doing it for me. You never know what people's reactions are going to be, so I often feel uncertain about how I will be judged. I think people generally realize that it is not socially acceptable to be homophobic or hateful, so if they have those reactions, they keep their opinions to themselves or censor themselves. I find it makes it hard to know if interactions are genuine. For me, a risk of being open about who I am is that I am concerned about continually being evaluated for my sexual orientation. That risk is worth taking, rather than having the burden that comes with hiding who I am.

### **My Faith**

8. I am a baptized and confirmed Anglican, and a member of Christ Church Cathedral. I attend church on special occasions such as Christmas and Easter. I believe that my sexual orientation is compatible with my religious beliefs. Our minister at the Church is gay. His sexual orientation has helped me understand my faith. The Anglican Church has married same-sex couples for as long as I can remember.

9. My faith is very personal. I have been able to find my own way of being spiritual in the Anglican Church. The Anglican Church is very accepting of me: I have never faced any attitudes of exclusion or discrimination from it.

### **Education, Employment and Public Service**

10. I graduated from Kwantlen Park Secondary School in 2006. I went to Kwantlen Polytechnic University for 2 years and am now completing my Bachelors of Commerce in Public Administration at Thompson Rivers University by part-time distance education. I expect to complete my degree in June 2016.
11. I am preparing to write the Law School Admissions Test. I plan to apply to law school for September 2016.
12. My curriculum vitae is attached as **Exhibit "A"** to my affidavit.
13. I worked at the Dr. Peter Centre doing fundraising and development.
14. As an entrepreneur, I co-developed a crowd-funding platform called Weeve. A publicly-traded company bought it to apply it on a larger scale. I am also the Principal of Loke Strategies, a company that advises government agencies, non-profit organizations and businesses on marketing, business development and communications.
15. I am dedicated to serving the public in my personal and my professional life. I am an active volunteer. I received the Chief Scouts' Award from the Governor General of Canada for volunteerism and community service. This was an important moment for me and for my conviction of giving back to my community.
16. I sit on the Board of Directors for YouthCO, a youth organization with a mandate to create an HIV-, AIDS- and Hepatitis C-free generation through peer education and research. I speak at conferences about youth leadership and public service. In 2013 I was named by Xtra Vancouver as one of British Columbia's "Top 30 under 30". In 2014 I was named one of the Top 30 under 30 by BC Business and a "Future Leader" by MacLean's Magazine.

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17. I became interested in the Parks Board through playing hockey. I was encouraged by a Parks Board Commissioner to run in the 2011 municipal election, and upon consideration I decided to put my name forward.
18. I am the youngest-ever elected official in Vancouver's history when I was elected to the Vancouver Park Board in 2011. As Park Board Commissioner, my mandate is to improve Vancouverites' access to parks and recreation, practice fiscal resiliency and pursue environmental sustainability.
19. I participate as the Park Board Liaison for the following working groups and committees:
  - (a) Trans and Gender-Variant Inclusion Working Group;
  - (b) Britannia Community Services Society;
  - (c) Jericho Sailing Centre Association;
  - (d) Mount Pleasant Community Association;
  - (e) Roundhouse Community Arts and Recreation Society;
  - (f) Vancouver City Planning Commission;
  - (g) LGBTQ Advisory Committee; and
  - (h) Children, Youth, and Families Advisory Committee.
20. In my work, I have continually dealt with issues of access to services, facilities and public areas. I frequently deal with policies and structures that may be neutral on their face but are less accessible to particular groups. I see part of my work as trying to remedy such effects.
21. Some of the accessibility work that I have done includes:
  - (a) I have liaised between community centres, neighbourhood societies and the Parks Board on reducing the financial barriers to accessibility. I have helped implement the "One Card" program, which provides universal access to all community centres. I have also advocated for financially accessible children's programs, and programs for urban First Nations youth.

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- (b) I have worked with the Planning Commission on amending the building code to require gender neutral spaces, to improve women's safety and to improve access for disabled people. I want to make all park facilities comply with this amended building code.
  - (c) I made a motion that the Parks Board create a Trans and Gender-variant working group. I set the criteria for the working group's mandate and its timelines. The motion was passed unanimously, including all political parties on the Board. The working group started in September. I have been a resource and advocate for it from the beginning.
22. Part of my work with the Parks Board and the Trans and Gender-variant working group is improving the accessibility and inclusiveness of public spaces. This involves understanding the ways that public areas can exclude people on the basis of gender. The Parks Board has conducted an audit on this issue. I expect that it will produce a report in April 2014.
23. I am concerned about accessibility and inclusiveness not just because of my personal interests, but because I am concerned about others' ability to access from important public resources.

### **Interest in Becoming a Lawyer**

24. I would like to become a lawyer, and I plan to apply for law school for September 2016. I am interested in law because of my interest in and commitment to public service. I want to understand the law and how to apply and analyze it. I want to be a lawyer that advocates for groups who are struggling to gain recognition and respect in our society. In my view, the law is meant to protect all of us, including members of vulnerable groups.
25. I think that in our society we still have a long way to go. While culturally we have a lot of "tolerance", and tolerance is enough to move us toward social change, it is not enough to mean true equality. I think equality is about moving from tolerance, to acceptance or indifference to difference, and then to celebrating our differences. Differences make us

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stronger in our society, and equality can lift everyone up. I would bring these ideas to the practice of law.

26. Having a law degree will provide me with opportunities to attain respect and influence by participating in public life. I understand that many people involved in politics, public affairs and policy development have law backgrounds. Having a law degree will keep other career options available in politics, business or other areas. It would also help me know more about one of my core passions, which is local governance.
27. It is also important to me to see LGBT people represented in political positions. This is part of my view of democracy. I think I can provide some of that representation in my role as an elected official, and I think that there should be more LGBT people and young people in public office, helping to advance the interests of their constituents.
28. Although they are less important to me, there are financial benefits to having a law degree. The economic stability that comes from a legal career is appealing to me. I read an article posted on Canadian Lawyer Magazine online discussing a report that found 94% of law school graduates are employed two years after graduating. A true copy of the webpage found at <http://www.canadianlawyermag.com/legalfeeds/1952/new-report-notes-94-per-cent-employment-rate-for-law-graduates.html> and a copy of the report are attached as **Exhibits "B" and "C"** respectively.
29. I read another article posted on Canadian Lawyer Magazine online discussing a report that law school graduates are likely to make high incomes. A true copy of the webpage found at <http://www.canadianlawyermag.com/legalfeeds/1646/law-school-still-a-good-bet-for-future-earnings-report.html> and a copy of the report are attached as **Exhibits "D" and "E"** respectively.
30. I plan to go to law school in British Columbia. My family, my partner, my social life, my friends, my work and my business contacts and networks are based in BC. I am a member of public life in BC. I love my home and am very thankful to live here. I live in a province and a country that are seen as socially progressive and accepting. It feels safe for me to live, work and study here as an out gay man.

- 7 -

31. When I apply to law school, I want to have as many options available as possible.
32. I have visited law school websites and done some research about where I would like to attend and what my chances of acceptance are at those schools. For example, I visited the UBC Law website, which describes how many applications there are each year and how many positions are available. A true copy of the webpage found at <http://www.law.ubc.ca/prospective/jd/faq.html> is attached as **Exhibit "F"** to my affidavit.
33. Most Canadian law schools report their application and admission statistics to the Law Schools Admissions Council. The Council publishes that information at: <http://www.lsac.org/jd/choosing-a-law-school/canadian>. I have reviewed the information from the reporting Canadian schools. Based on the number of applications per seat at each school, I have observed that law school positions are highly sought after and can be difficult to obtain. A chart listing the data available from each school from the LSAC website is attached as **Exhibit "G"** to my affidavit.
34. I am aware that lawyers trained in one province can work in other provinces due to the National Mobility Agreement reached by the Federation of Law Societies of Canada. A copy of the Agreement is attached as **Exhibit "H"** to my affidavit.
35. I am aware that Trinity Western University ("TWU") is a Christian faith-based university affiliated with the Evangelical Free Church of Canada. I am a Christian and would be open to attending a school that incorporates Christian values in its curriculum.

#### **The Minister's Consent for the Law School**

36. The Minister of Advanced Education, Amrik Virk, (the "Minister") granted consent to the TWU Law School on December 17, 2013. The letter indicating his decision is attached as **Exhibit "I"** to my affidavit. The Minister's press release of December 18, 2013 is attached as **Exhibit "J"** to my affidavit. In these documents the Minister says that he considered the Federation of Law Societies of Canada Reports and the report of the Degree Quality Assessment Board. A true copy of the Federation of Law Societies Report from the Canadian Common Law Program Approval Committee is attached as

**Exhibit “K”** and the Report from the Special Advisory Committee attached as **Exhibit “L”**.

37. I called the Ministry of Higher Education on April 7, 2014 and asked where I could find TWU’s proposal for degree recognition for its law school, the Degree Quality Assessment Board’s report, and the criteria that the Minister applied in making his decision. I was directed to a website where I could locate some of the relevant documents. I was told that only a summary of the Degree Quality Assessment Board’s report was available. A true copy of the summary is attached as **Exhibit “M”** to my affidavit. A true copy of the Minister’s Degree Quality Assessment Criteria is attached as **Exhibit “N”** to my affidavit.
38. I have read the proposal submitted for TWU’s law school in its application for consent from the Minister, and I understand that as an admission requirement students are annually required to read, understand and pledge to the terms of the Community Covenant Agreement (the “Covenant”) prior to registering for classes. The proposal is attached to my affidavit as **Exhibit “O”**.
39. I have read the Covenant, which is attached to my affidavit as **Exhibit “P”**.
40. I have read the TWU Student Handbook, which is attached to my affidavit as **Exhibit “Q”**.

#### **I am not Welcome at the Law School**

41. Based on these documents, I understand that I would not be welcome as a student at TWU’s Law School. This is also clear to me from the “frequently asked questions” and answers on TWU’s website. A true copy of these questions and answers, retrieved online at <https://www.twu.ca/academics/school-of-law/faq.html>, is attached as **Exhibit “R”** to my affidavit.
42. While TWU says on its website that gay students would be welcome at the school, the President of TWU stated in an interview that people in same-sex relationships would not want to attend TWU’s Law School. I have reviewed an article from the online magazine

“Precedent”, which is attached to the affidavit of Cheryl Mackinnon made on April 9, 2014, Exhibit “G”, in which TWU President Bob Kuhn is quoted.

43. The Covenant requires students to promise that they will not engage in sexual intimacy outside of traditional marriage between a man and a woman. This means to me that I would: a) be excluded from the school; b) would have to abstain from sexual intimacy if I attended; or c) become closeted and lie about who I am.
44. For me, the personal consequences of those choices include the following:
  - (a) I would not be eligible to attend at one of the law schools in BC; or
  - (b) If I wanted to make myself eligible to attend the TWU law school, I would have to end my relationship, which is an unacceptable consequence; or
  - (c) I would have to go in the closet, which is unacceptable both for my own dignity and for my desire to live honestly and with integrity. Furthermore, it would be unacceptable for my first act as a law student to be dishonest. It conflicts with my personal integrity and the value I place on honesty. It also conflicts with what I see as the value of honesty in the legal profession.
45. I could not attend TWU because I am gay. To me, being gay includes being able to express my sexuality and sexual intimacy with a same-sex partner. I would not sign the Covenant because I would have to lie or deny the expression of a core part of my identity.
46. Apart from any expression of sexuality, I also could not attend TWU because all of my colleagues in the program, as well as all of the professors and staff, would have just signed an agreement saying that who I am is not acceptable. An environment where I would be the subject of shame would exclude me from attending there. This is reminiscent of a time when homosexuality was considered a mental illness, and makes me feel like I am being told there is something wrong with me. I understand that the diagnosis of homosexuality as a mental illness was removed from the Diagnostic and Statistical Manual of Mental Disorders in 1986.



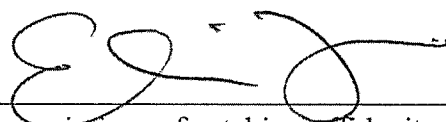
- 10 -

47. TWU says on its website that it does not monitor the enforcement of the Covenant. But it says that if a member of the community won't abide the Covenant, then they should go somewhere else. It is not true that anyone is welcome to attend TWU. Given the requirement to sign the Covenant, I am not welcome.
48. If the Covenant did not prohibit same-sex intimacy, or if signing it were not mandatory, I would consider TWU Law School a viable option.
49. It is no answer to say that there are other law schools to choose from. There were other water fountains and lunch counters to choose from, but that did not justify segregating public spaces based on race. The suggestion that I should just go somewhere else is offensive.
50. It is no comfort to me to say that I could go to school somewhere else. I want to go to law school in BC but spots are limited. I know it is a highly competitive process to get in to law school. It would be good for me if a new law school opened, because I, like everyone else would have more chances of acceptance. But I, like everyone else, should have equal opportunity to go to all law schools.
51. I am aware that TWU was created under the *Trinity Western University Act*, and that the private statute that constitutes the university says that education at the university will be provided regardless of "race, colour or creed". A true copy of the legislative history of the *Trinity Western University Act* is attached to my affidavit as **Exhibit "S"**.
52. I understand that the Minister gave his consent to TWU's law school program under the *Degree Authorization Act*. I am aware that the Legislative Assembly passed the *Act* in 2002. A true copy of Hansard from the 2002 debates prior to the enactment of the *Act* are attached to my affidavit as **Exhibit "T"**.
53. I am aware that the Province conducted a review of the degree approval process in British Columbia in 2011. A report resulting from that process titled "Review of the Degree Approval Process in British Columbia" from March 31, 2011 is attached to my affidavit as **Exhibit "U"**.

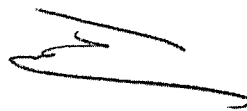
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54. The Province published a document titled "Ministry of Advanced Education Revised 2013/14 – 2015/16 Service Plan" on or about June 14, 2013, a true copy of which is attached to my affidavit as **Exhibit "V"**.
55. I am aware that TWU receives some government funding. True copies of press releases from TWU's website from August 7, 2009, August 17, 2009 and August 26, 2009 are attached as **Exhibit "W"** to my affidavit
56. Being excluded from a law school for being unable to honestly pledge my acceptance of the Covenant seems blatantly unfair. I am excluded because of something I feel I have no choice about. Even if it were a choice for me, it is not one that TWU should be able to force me to make.
57. I find the Province's endorsement of TWU's law school humiliating. We should not have to go to court over this issue. In this day and age, given all the battles people have fought to gain equal rights and recognition, it is embarrassing that we still have to fight to get the government to protect the rights of the LGBT community. This is not just embarrassing for me but for our province and for the Canadian public.

SWORN before me at the City of Vancouver, in the Province of British Columbia, this 11<sup>th</sup> day of April, 2014.

  
A Commissioner for taking affidavits  
for British Columbia

**Elin R.S. Sigurdson**  
Barrister & Solicitor  
340 - 1122 Mainland Street  
Vancouver, BC V6B 5L1  
(604) 687-0549



TREVOR JAMES LOKE

This is the 1<sup>st</sup> Affidavit  
of Trevor James Loke in this case  
and was made on 11/04/2014

No. \_\_\_\_\_  
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN

TREVOR JAMES LOKE

PLAINTIFF

AND

MINISTER OF HIGHER EDUCATION OF BRITISH  
COLUMBIA

DEFENDANTS

**AFFIDAVIT # 1 OF TREVOR JAMES LOKE**

Janes Freedman Kyle Law Corporation  
340 – 1122 Mainland Street  
Vancouver, BC V6B 5L1  
Telephone: 604-687-0549  
Attention: Karey Brooks, File No.: 1202-001





This is the 1<sup>st</sup> Affidavit  
of Cheryl McKinnon in this case  
and was made on 9/04/2014

S-142908

No. \_\_\_\_\_  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**BETWEEN:**

This is Exhibit "K" referred to in the  
affidavit of Trevor Tso  
sworn before me at Vancouver  
this 16 day of January 2015

TREVOR JAMES LOKE

**PETITIONER**

  
A Commissioner for taking Affidavits  
for British Columbia

- and -

MINISTER OF ADVANCED EDUCATION OF BRITISH COLUMBIA

**RESPONDENT**

**AFFIDAVIT #1 OF CHERYL MCKINNON**

I, CHERYL MCKINNON, Law Clerk, of the Town of Oakville, Province of  
Ontario, **MAKE OATH AND SAY:**

1. I am a law clerk at the law firm of Ruby Shiller Chan Hasan, Barristers, counsel  
for the Petitioner. I have personal knowledge of the matters contained in this affidavit.  
Where I have sworn to evidence based on information provided to me by others, I have  
identified the source of the information and I verily believe such information to be true.

2. A copy of the Trinity Western University (hereafter "TWU") Student Handbook is available on the TWU website. On April 8, 2014, I downloaded the Student Handbook by accessing the website at the following URL: <http://twu.ca/studenthandbook/student-handbook-2012-2013.pdf>. Contained in the Student Handbook at pp. 19-23 is the Community Covenant which all students must agree to and sign before being permitted to enroll in classes. A copy of the Student Handbook that I downloaded is attached hereto as Exhibit "A".

3. On March 24, 2014, I took a screenshot of the TWU online application at the following URL: <https://www1.twu.ca/undergraduate/apply/ugapplication>. The screenshot reflects the part of the application where students must understand and agree to the Community Covenant before being permitted to register for classes. A copy of the screenshot of the TWU online application is attached hereto as Exhibit "B".

4. On December 17, 2013, the Minister of Advanced Education of British Columbia, Amrik Virk gave his consent for TWU's law school with certain terms and conditions attached. I obtained this consent by searching the Approvals and Consents page on the Ministry of Advanced Education website. I located the consent at the following URL: <https://www.aved.gov.bc.ca/psips/public/report/document.jsp>. A copy of the consent that I located is attached hereto as Exhibit "C".

5. On December 18, 2013, Minister Virk released a press statement announcing the consent. I obtained a copy of this statement on April 8, 2014 by accessing the British Columbia Newsroom website at the following URL: <http://www.newsroom.gov.bc.ca/2013/12/statement-on-trinity-western-universitys-proposed-law-degree.html>. A copy of the statement is attached hereto as Exhibit "D".

6. Also on December 18, 2013, Minister Virk held a telephone press conference in which he discussed his reasons for granting the consent. I obtained a copy of the recording of this press conference from Scott Sutherland, Communications Manager at the B.C. Ministry of Advanced Education on April 4, 2014. A copy of the email from Scott Sutherland and a disc containing the recording is attached hereto as Exhibit "E".

7. Lauren Williams, a law clerk at the firm of Ruby Shiller Chan Hasan, informed me that she prepared a transcript of the Minister's press conference based on the audio we received from the Ministry of Advanced Education. A copy of this transcript is attached hereto and marked as Exhibit "F".

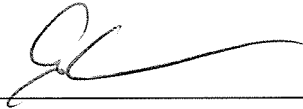
8. On March 19, 2014, Trinity Western President Bob Kuhn provided a comment to Precedent Magazine, for an online article titled "Overturning provincial approval of Trinity Western's law school would be discriminatory, says university president in response to proposed lawsuit". I obtained a copy of this article on April 8, 2014 from the following URL: <http://lawandstyle.ca/overturning-provincial-approval-of-trinity-westerns-law-school-would-be-discriminatory-says-university-president-in-response-to-proposed-lawsuit/>. A copy of this article is attached hereto and marked as Exhibit "G".

SWORN before me at the City )  
 )  
 of Toronto, in the Province )  
 )  
 of Ontario, this 9<sup>th</sup> day )  
 )  
 of April, 2014. )  
 )  
 \_\_\_\_\_ )  
 A Commissioner for taking affidavits )  
 for Ontario )

GERRARD CHAN

  
 \_\_\_\_\_  
**CHERYL MCKINNON**

THIS IS EXHIBIT "A" REFERRED TO IN THE  
AFFIDAVIT OF CHERYL MCKINNON  
SWORN BEFORE ME AT TORONTO  
THIS 9th DAY OF APRIL, 2014

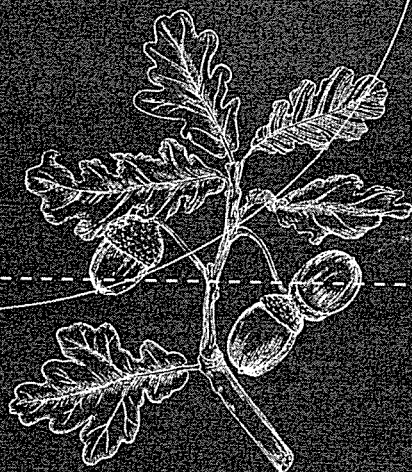


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A COMMISSIONER FOR TAKING AFFIDAVITS IN ONTARIO



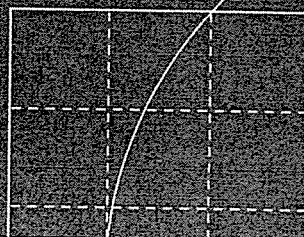
2012 / 2013



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# Trinity Western University

## STUDENT HANDBOOK



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# Trinity Western University

## Student Handbook

Sept. 2012 - Sept. 2013

### WELCOME TO TRINITY WESTERN UNIVERSITY

We are pleased you have accepted the invitation to become a member of the Trinity Western community. It truly is our goal to develop godly Christian leaders with thoroughly Christian minds. We are privileged that you have joined our mission, and look forward to becoming an intimate part of your life. We have become partners in a very purposeful and life changing experience. We trust the Student Handbook will help guide you in understanding who we are as a disciple-making, academic community.

### OUR MISSION

The mission of TWU, as an arm of the church, is to develop godly Christian leaders: positive, goal-oriented university graduates with thoroughly Christian minds; growing disciples of Jesus Christ who glorify God through fulfilling the Great Commission, serving God and people in the various marketplaces of life.

### 2012-2013 CAMPUS THEME

Rooted & Reaching

Colossians 2:6+7 (NIV)

*"So then, just as you have received Christ Jesus as LORD, continue to live in him, rooted and built up in him, strengthened in the faith as you were taught, and overflowing with thankfulness."*

## the trinity western community

Trinity Western is much more than an institution with classrooms, books and exams; we are a passionate, disciple-making academic community. We have a purpose. Our faculty and staff are committed to helping students fulfill their potential to make a positive contribution to their world, and to serve God and others over the course of their lives. At TWU, staff and faculty take an interest in helping students develop to their full potential, and the University provides many opportunities where students can test their gifts and skills as they prepare to make a difference.

### ACCEPTING THE INVITATION

Because TWU is a learning community with a unique, exciting mission, it is important for students to consider what it means to be a member of our community. First, students come into the TWU community by invitation. They are invited to embrace the waiting opportunity to be part of a community with an exciting history, and to share—with fellow students, professors and staff—our mission to have a positive impact on society. We count it a privilege to be members together in this enterprise.

Becoming a co-owner in any community brings with it certain expectations, responsibilities and subsequent accountability. Accepting an invitation to become a member of the Trinity Western community entails agreeing to live in accordance with its *Community Covenant*, which seeks to foster a positive educational environment that reflects the values cherished by our community. Students are called to maintain TWU's positive environment by being accountable to the community and its members for their own actions. The actions of each member have a direct effect on the other co-owners of the community. Students are encouraged to take initiative to see where they can contribute to campus life, and have a positive influence on others.

### REWARDS OF COMMUNITY

As students become active, responsible members in the TWU community, they find it offers many privileges for them to enjoy. Through classes, community life, and residences, students have the unique opportunity to develop meaningful friendships with people from Canada and around the world. Through quality friendships, students come to better understand themselves and others, explore what's important to them, and discover what they have to offer.

### PARTNERING IN SERVICE

As students participate in student leadership and other campus activities, they discover opportunities to partner with others to serve the campus community. In doing so, they earn the respect and trust of people—and gain the right to have a greater influence in their community, and its development. As students become shareholders in this community, engage others in active friendship, and work together to serve others, they will find that TWU is a learning community second to none.

## student guidelines living in community

### ACADEMIC ADVISING OFFICE

[twu.ca/advising](http://twu.ca/advising)

[advisingoffice@twu.ca](mailto:advisingoffice@twu.ca)

Academic advising is an integral component of the learning process at Trinity Western University. The Advising Office personnel are available to assist students develop their program of studies. Services include the selection of a degree program, long term planning, course selection for each semester, and help with the adjustment to academic life.

The Advising Office will assign each student (Advisee) to an academic Advisor. Each Advisor is a faculty member in the Advisee's chosen field of study, thus ensuring a perspective from which guidance on discipline-specific issues—such as careers and graduate study options—can be provided.

As students progress through their educational experience at TWU, they may find a change of program and/or Advisor becomes necessary; the Advising Office will facilitate those changes. The goal of the Advising Office is to see each student progress through to graduation.

The Advising Office collaborates with the Admissions Office, the Office of the Registrar, Financial Aid, Student Life, and all Faculties and Schools.



## ACCOUNT INFORMATION

[twu.ca/registrar](http://twu.ca/registrar)

Students can view their Registration Invoices and Account Statements online on the Student Portal ([www1.twu.ca/services](http://www1.twu.ca/services)). For students who have questions regarding their student account, or have concerns about making required payments, the Office of the Registrar staff are available to assist, and may be able to help with alternate payment arrangements. Students may also visit the Financial Aid office for assistance with loans, bursaries, scholarships or special awards.

## ADVERTISING

[twu.ca/life](http://twu.ca/life); [studentlife@twu.ca](mailto:studentlife@twu.ca)

All solicitation, advertising and/or marketing by non-TWU businesses or organizations to students on campus must be vetted through the Student Life Office.

## ALCOHOL

Trinity Western University is an alcohol-free campus. Consumption of alcohol, or possession of alcohol or empty alcohol containers on TWU property, at any TWU sponsored event, or on a TWU sponsored trip, is prohibited. Consumption of alcohol by minors and providing alcohol to those under the legal drinking age are both illegal, and therefore, prohibited. Community members hosting parties off campus where alcohol is present are responsible for any incidence of underage drinking at the party, whether they provide the alcohol directly or not. Drunkenness is prohibited at all times for all TWU community members.

## BICYCLES

All bicycles are to be stored in the bike shed or on a bike rack. Bikes stored in the bike shed must be registered at the Campus Service Centre. Students should always use a bike lock, even when their bike is stored in the shed. There is no charge for bike-shed keys. Students can pick up a key and a bike sticker at the Campus Service Centre, and this sticker should be updated at the beginning of each Fall semester. Students must supply their own padlocks. The University will not be held responsible for locks that must be cut to access bicycles.

## CHANGE MACHINES

Change is available from change machines, which are located in the lower level of Douglas Centre, the Northwest Building laundry room, and at the Campus Service Centre.

## COLLEGIUM PROGRAM

[twu.ca/collegium](http://twu.ca/collegium)

Trinity Western University is pleased to provide a home-away-from-home for commuter and graduate students attending university. To become a member of one of these personal and professional networking communities, undergraduate students can register online at [twu.ca/students](http://twu.ca/students) through TWU's Student Portal. Graduate students may pick up an enrolment card in the Graduate Collegium in the Fosmark Building. Interested students are encouraged to stop by for a tour of the collegiums anytime during normal hours. Hours of Operation are from 7 a.m. to 7 p.m. Monday through Thursday and 7 a.m. to 5 p.m. on Fridays. Collegiums are closed on all holidays and during Reading Week.

## COMPUTERS

[twu.ca/helpdesk](http://twu.ca/helpdesk)

The University offers free network access to all students. Residents have access to both wired and wireless networking options, while commuters can access our wireless network throughout campus. Please note: the use of 2.4GHZ cordless phones, wireless speakers and wireless hubs is prohibited, as they directly interfere with University's wireless network, disabling access to the wireless network for all users in that area.

The university understands that materials accessed through the network are generally to be used for academic purposes and also recognizes the recreational value of the Trinity Western network. All community members are prohibited from viewing pornography, hate literature, and other sorts of materials in opposition to the University's *Community Covenant* and/or policies and guidelines of the University. The University's full network use policy is located at [twu.ca/divisions/technology/students/aup.html](http://twu.ca/divisions/technology/students/aup.html), and use of the University's network constitutes acceptance of this policy. The university provides assistance for both networking, email, and other twu electronic services through our web-based helpdesk at [twu.ca/helpdesk](http://twu.ca/helpdesk). Those unable to access the helpdesk electronically should call 604.882.4357 from off campus or ext. 4357 from any on-campus phone.

## DINING SERVICES

### [twu.ca/dining](http://twu.ca/dining)

Sodexo is Trinity Western's food-service provider. The main cafeteria is located in the Reimer Student Centre. In addition, two smaller food service venues—the Lower Café, located in the lower level of Douglas Centre, and The Cognoscenti, located in the lobby of the Northwest Building—are available. Students may eat meals in the Cafeteria, Lower Café and The Cog either by paying individually for each meal (cash, credit and debit accepted at each location), or by purchasing credit in advance on a meal card. Meal cards can be credited at the Campus Service Centre. Students eating outside the food services area should not borrow the cutlery and dishes from the Cafeteria. A Food Services Committee is established every year to discuss food quality, quantity, value, available options, and other food-related concerns. Students are encouraged to give their suggestions to a member of this committee, or offer written feedback via the suggestion box in the Cafeteria.

## ECOSYSTEM STUDY AREA

### [twu.ca/ecosystem](http://twu.ca/ecosystem)

Opened in 1998, Trinity Western University's Ecosystem Study Area (ESA) is an area dedicated to the study, preservation, and proper management of the environment. The University takes the stewardship of this portion of the Salmon River Habitat—entrusted to us by God—very seriously. The ESA functions as a "living creation laboratory" for TWU students to be able to learn about the local ecology and species of this area. Environmental Studies and Biology students regularly undertake exercises and research projects to study different parts of the ecosystem such as trees, soils, salmon, stream invertebrates and the endangered Oregon Forest snail. The following guidelines will care for, preserve and protect our natural areas for future generations:

- Stay on designated trails;
- Do not remove or disturb wild life or vegetation;
- No smoking, fires of any kind, or camping is permitted;
- Place all litter in designated containers;
- No bicycles, motorized vehicles, horses or pets.

For further information or to volunteer with the ESA contact the Ecosystem Study Area Manager at ext 2979.

## EVENTS

### [twu.ca/eventapproval](http://twu.ca/eventapproval)

Approval is required for all TWU events, whether taking place on or off campus. The approval process is online at [twu.ca/eventapproval](http://twu.ca/eventapproval). An event is considered a TWU event when one or more of the following apply:

- A TWU representative (employee, affiliate employee, TWUSA or TWUGSA member or student leader) plans the event or activity ostensibly in the fulfilment of their TWU leadership responsibilities;
- The event is promoted as a TWU event, or as a TWU group, club, or team event;
- TWU funds or student fees have been used to carry out the event.

## EXCESSIVE NOISE

Please remember that residence halls and campus buildings accommodate individuals interested in securing a university education. Campus quiet hours are 11 p.m. to 7 a.m. daily, although an individual's right for quiet study and sleep time always supersedes another's rights to make unnecessary noise, 24 hours a day, seven days a week.

## EXPLOSIVES

Unauthorized explosives, fireworks, flammable substances, and dangerous chemicals are not permitted on University property.

## FINES

Fines may be assessed to students for various violations of the *Community Covenant* or other policies and guidelines of the University, including those published in the Student Handbook, Academic Calendar, and twu website. Common fines will be assessed for—but are not limited to—the remuneration of damages, cleaning, and replacement costs to campus or student property; malicious or intentional misconduct; and services that have been abused or neglected. Fines will be charged to student accounts, and can be paid at Enrolment Services. Grades may be withheld, and pre-registration delayed, until all outstanding violations are paid.

Minor fines include, but are not limited to: parking violations; library fines; burning candles, incense, or potpourri; pranks causing damage to property, or inconvenience to community members; propping open fire doors; residence hall visitation violations; storing bikes in campus buildings; inappropriate or excessive decorations; prohibited furniture or appliances; unreported roommate or room changes; remaining in buildings during fire alarms or drills; having unauthorized pets; and excessive noise levels.

Serious fines include, but are not limited to: intentionally or accidentally pulling a fire alarm; tampering with fire and/or safety equipment; unauthorized access to campus buildings or areas (including all roofs); rappelling from windows and/or buildings; and possessing weapons of any kind. Repeat violations may result in fine increases and/or further accountability.

## FIRE AND SAFETY

On-campus fires are not permitted, due to municipal fire regulations and for the safety of our community. Disassembling, mishandling, or tampering with exit signs, fire extinguishers, hoses, valves, alarms, sprinkler heads, heat sensors, or smoke detectors for any reason other than an emergency, is prohibited. It is a criminal offence to pull a fire alarm as a prank. Jeopardizing the safety of our community is a serious offence, and will be dealt with through the Student Accountability Process. In the event of a fire alarm, students are required to exit the building immediately. Do not re-enter the building until the fire department or appropriate designate grants permission.

## HEALTH CARE

[twu.ca/health](http://twu.ca/health); [twu.ca/life/wellness](http://twu.ca/life/wellness)

Every student is required by law to purchase British Columbia Medical Insurance. This entitles access to British Columbia Medical Services. Through a British Columbia Care Card, students can be treated at any clinic or hospital in British Columbia, including the medical clinic in Trinity Western's Wellness Centre (2<sup>nd</sup> floor, Douglas Centre). For medical clinics in the twu area, look in the Telus Yellow Pages under "clinics." New International or U.S. students will have a British Columbia interim insurance card for their first three months at twu. Students should read the pamphlet, which summarizes plan benefits and exclusions.

The twu Wellness Centre's medical clinic is available for students with personal health concerns or insurance questions. Appointments with a doctor or nurse can be made by calling campus ext. 2100, or by going to the clinic in person during regular office hours. On campus, 24-hour First Aid assistance is also available by calling Security at 604.513.2099. For emergency assistance, call 9-1-1.



Some students on campus may, due to a medical condition, require the utilization of syringes. For the safety of our campus community, it is a requirement that anyone utilizing syringes ensure they are safely disposed of in designated Sharps Containers. These containers are available free of charge to anyone who requests one through TWU's Wellness Centre.

### IDENTIFICATION CARDS

Student ID cards will be issued for use for athletic events, meal plan purchases, checking out resources at the library, for security verification and residence access. If a student loses their ID card, they can get a new one through the Campus Service Centre. A replacement fee will apply. Security staff maintains the right to ask for student ID cards at their discretion. Students are expected to comply, at all times, with the requests of TWU's Safety and Security personnel.

### LIBRARY FACILITIES

[twu.ca/library](http://twu.ca/library)

The Alloway Library provides over half a million resources onsite or online as well as study rooms, internet workstations, listening-viewing facilities, and photocopiers. Professional librarians are ready to assist students at the library or online. Resources are available on all three floors. Fines or replacement charges will be levied for late, damaged or lost materials.

### LOST & FOUND

The main campus lost & found is located at the Campus Service Centre in Reimer Student Centre. Any articles lost or found at TWU should be registered there.

### LOUNGES

There are common area lounges within most TWU resident halls. Common-area lounges may be booked through the Student Life office for group activities. Removal of furniture or furnishings from residence hall lounges is not permitted, and extra furnishings should not be added without permission.

The following co-ed common area lounges are open 24 hrs, 7 days per week:

- Douglas Hall (first and second floor main lounges);
- Fraser Hall (first floor lounge);
- Northwest Hall (first floor 'The Cog' lobby area).

### MAIL AND COURIER SERVICES

[twu.ca/campus/services/mail](http://twu.ca/campus/services/mail)

Telephone 604.513.2140 Fax 604.513.2011

Mail services are available Monday to Friday, 9 a.m. to 5 p.m. at the Campus Service Centre in RSC. Services include sales of Canadian and U.S. stamps, express mail, registered mail, international mail, parcels, couriers, laminating, and fax sending and receiving.

Student mailboxes are located in Douglas Centre. Mailboxes and keys are issued upon enrolment/registration, and remain with the student for the duration of their continuous enrolment with some exceptions. Upon conclusion of enrolment, the student is responsible to return their mailbox key to the Campus Service Centre.

Mailbox key replacement is available through the Campus Service Centre at a cost of \$5, and a \$25 lock re-keying fee is charged for keys not returned. Mail service does not include forwarding mail. All mail addressed to students no longer enrolled at TWU shall be "returned to sender."

Please have mail addressed as follows:

Student's Name  
 twu Mailbox Number  
 7600 Glover Road  
 LANGLEY, BC V2Y 1Y1

Student mail is sorted into mailboxes five days a week from September to April, and two days a week during the summer season. A slot in each mailbox allows students and staff to insert notes. All mail may be dropped off at the Campus Service Centre, located in the Reimer Student Centre building. Please include a return address on ALL mail. Students will be notified if they have received a parcel, and parcel pick-up is located in Shipping/Receiving, lower RSC. Please bring ID.

### U.S. MAIL SERVICE

There is letter mail service to and from the U.S. on Tuesdays. Letters going to the U.S. may be dropped into the general mail drop at the Campus Service Centre by 8 am on those days.

Letters (see info for parcels below) coming from the U.S. should be addressed as follows:

Student's Name  
 twu Mailbox Number  
 PO BOX 1409  
 BLAINE, WA 98231-1409

Due to Customs regulations, twu is NOT PERMITTED to bring PARCELS and/or MAGAZINES across the border. Therefore, parcels and magazines from the U.S. should be addressed as follows:

Student's Name  
 twu Mailbox Number  
 7600 Glover Road  
 LANGLEY, BC V2Y 1Y1  
 CANADA

Sending parcels through a courier service is NOT recommended, due to added customs charges.

### MUSICAL INSTRUMENTS

Instrument amplifiers are not permitted, and playing instruments within the residence halls is discouraged. Designated music practice rooms are available on campus, and are designed for this purpose. Campus quiet hours are 11 p.m. to 7 a.m. daily, although an individual's right for quiet study and sleep time always supersedes another's rights to loud expression, 24 hours a day, seven days a week.

### OFF-CAMPUS HOUSING

**[trinity.och101.com](http://trinity.och101.com)**

The Off-Campus Housing 101 website is a free resource students may access when in need of finding accommodations off campus. Listings are provided by landlords seeking twu student-renters, and students can also look for roommates with this service. This site is not managed by twu.

### OFFICE OF THE REGISTRAR

**[twu.ca/registrar](http://twu.ca/registrar)**

The Office of the Registrar is the foremost resource for all students' registration and financial account activity during their studies and beyond. Located in Mattson Centre, the Office of the Registrar provides services on-line, or in person. Students who need assistance with anything to do with enrolment at twu, either registration or financial, should contact the Office of the Registrar for help.

## ONLINE COMMUNITIES

Participation in social networking and broadcasting communities such as, but not limited to, MySpace, Facebook, or YouTube, are common sources of social connection and personal expression for many members of the twu community. In a proper balance with face-to-face relationships, online community involvement can be an enriching experience when certain precautions are taken. Students choosing to participate in online communities should consider the following:

- Limit the amount of personal information provided, and make use of the site's security or privacy settings to control access to personal information. Phone numbers, SIN or SSN information, student ID numbers, credit card information, physical addresses (including room numbers), email addresses, date of birth, photos, or personal disclosures can be accessed by others who may share them or use them in ways you do not intend;
- Behaviour that is inappropriate in face-to-face relations is also inappropriate online, such as threats, harassment, discrimination or acts of fraud. For the twu community, this also includes behaviour that is contrary to the Community Covenant and/or policies and guidelines of the University. Displays or disclosures of inappropriate behaviour may be investigated through twu's Student Accountability Policy and Procedures;
- All twu students should be familiar with the Community Acceptable Use Policy, which can be found at [twu.ca/divisions/technology/students/aup.aspx](http://twu.ca/divisions/technology/students/aup.aspx).

## OPEN RESIDENCE HOURS

The university encourages students to actively participate in their living-learning environments, promoting out-of-the-classroom learning, and personal development in the residence. However, to balance the need for student freedom with personal privacy, the following open residence hours are to be observed by all students and visitors of the University:

### **Douglas Hall/Fraser Hall/Northwest Hall**

Weekdays 5 p.m. to 9 p.m.

Weekends & Holidays\* 12 p.m. to 9 p.m.

Independent Study Week and during Final Exams 12 p.m. to 9 p.m.

\*Holidays include Thanksgiving Day, Remembrance Day, Good Friday & Easter Monday.

### **Robson Hall (Upperclassmen Housing)**

Daily 10 a.m. to 1 a.m.

## PARKING

### *Parking Options*

[twu.ca/parking](http://twu.ca/parking)

**Hourly:** Parking is available on an hourly basis at various locations on campus (e.g. Welcome Centre, Mattson Centre and Campus Service Centre, RSC) and provides students, staff, faculty and visitors with quick access for short term stays. All vehicles must display a valid hourly parking ticket or a complimentary pass. Parking tickets can be purchased at the Flag Pole or RSC underground parking pass dispensers.

**Daily permit:** Purchase a dispenser daily permit (\$6.50) and display on dash to park in any "C" (commuter) lot.

**Weekly permit:** Permit: Purchase a 7-day permit (\$23.00) from a parking meter machine and display on dash to park in any "C" (commuter) lot. Note: the Reimer Student Centre underground lot is a "reserved" and "pay hourly" lot; weekly permits are not valid for this lot.

**Yearly permit:** Residence and commuter students may purchase a parking permit decal valid for the academic year (September – April) by presenting accurate vehicle details (colour/make/model/license plate) to parking services. Failure to give correct information may result in a parking violation. Yearly permit decals are \$382.50 for resident students, and \$350 for commuting students (HST included). Robson underground permits are \$490 and are available to Robson residents on a first come, first served basis. A permit decal can be obtained throughout the academic year on

a pro-rated basis until the end of february, and refunds are available on a pro-rated basis at any time, provided the permit decal is returned to parking services. Should student status change from resident to commuter, the permit decal must be exchanged at security & parking services. If students use multiple vehicles, a "hangtag" may be obtained from parking services, once a photocopy of the vehicle's insurance (for both vehicles) is presented. Anyone using a homemade or unauthorized hangtag will be ticketed for violation of the parking guidelines.

**Temporary permit:** If a student's registered vehicle is in for repairs, they must obtain a temporary parking permit, available free of charge from security & parking service, for any interim vehicle parked on campus.

**Disability permit:** Persons holding a valid "disabled person" parking permit from any province or state may park in disabled person parking spaces or in non-reserved spaces throughout campus that assists convenient access to our facilities. Please register your vehicle with security & parking services. Those with a temporary disability that merits special parking consideration may obtain a temporary disabled person permit upon submission of a physician's certificate.

**Motorcycles:** Motorcycles do not require a parking permit, but must be parked in designated motorcycle areas.

All lots on campus are marked with an "S" (staff), "R" (resident), and "C" (commuter), signage. Resident stalls are numbered, and are reserved 24/7 for the student holding the permit for that stall. Commuters and staff may park in any open stall in their designated lots, or in the overflow lot located beside the Fosmark Building.

Mattson centre parking:

- One-hour parking for students, staff, faculty and visitors;
- All vehicles must display a valid hourly parking ticket, or a complimentary pass obtained from Admissions;
- Parking tickets can be purchased at the flag pole parking dispenser;
- See receptionist at the mattson centre for complimentary passes.

### *Parking Guidelines*

[twu.ca/parking](http://twu.ca/parking)

**Restrictions:** Permit holders may not park in any spaces that are "Reserved," such as fire lanes, disabled-person spaces, resident stalls, staff parking, or any other unauthorized space. Overflow parking is available, and can be found in the Fosmark-CanIL parking lot. Motor-vehicle owners who wish to park in a loading zone for the purpose of short-term loading/unloading must first check in with Parking Services to avoid receiving a parking violation. Except for authorized service vehicles, parking or driving on sidewalks or grass is strictly prohibited. Maximum speed in parking lots is 15 km/h.

**Permit Placement:** Parking permit decals must be properly affixed with the adhesive glue on the back (not taped) to the lower driver-side of windshield. Permits must be clearly visible, not on any removable object, and not appear in any tinted area. Parking permit decals may not be defaced, altered, sold, exchanged or falsely declared lost or stolen, or parking privileges may be withdrawn. All parking permits must be readable by Security when approached from the front of the vehicle, bottom corner, driver's side.

**Permit Removal:** Since parking permits are issued to a specific vehicle and operator, they are not transferable. Should a student's vehicle be sold or traded, the permit decal must be removed and Parking Services notified immediately with new vehicle details and license plate information. An administrative charge may apply.

**Parking Refunds:** To receive a pro-rated refund, students must return the original permit decal to Security & Parking Services. The refund will be credited to their student account as per the withdrawal fee schedule.

**Lost or Stolen Permits:** A lost or stolen permit must be reported immediately to Security & Parking Services. Students will be required to purchase another parking permit at full cost to replace it. The fee is waived if students have a police or ICBC report or receipt that their windshield has recently been replaced.

**Liability:** The security and insurance coverage of one's vehicle is the responsibility of its owner. Students should ensure valuables are removed from view, and that their vehicle is locked. The University assumes no responsibility for loss or damage through fire, theft, collision or otherwise, to the vehicle or its content. Uninsured vehicles are not permitted on campus and may be towed at the owner's expense.

### *Parking Enforcement*

[twu.ca/parking](http://twu.ca/parking)

**Parking Violation(S):** Parking fines range from \$25 to \$100 if the parking violation plus payment is received within seven (7) calendar days of issuance. Unpaid fines over seven (7) days will automatically be charged to the student's account, at a cost of \$50 to \$200. Parking in a "Reserved" spot will result in a \$75.00 non-appeal fine. Any unpaid violations may be license-searched through the Motor Vehicle Branch, and a subsequent charge of \$15.00 will be charged to the owner's student account. Multiple unpaid fines may result in a wheel lock applied to the vehicle or tow and impound at the owner's expense. Vehicles will not be released until these expenses are paid.

**Parking Violation(s) Appeals:** Students may challenge or appeal violations within seven (7) calendar days of issuance. Appeals will not be dealt with personally, but must be put into writing on twu appeal forms located at Parking Services in the Welcome Centre. Cancellation of a violation will be at the discretion of Parking Services only. All decisions based upon appeals are final.

### **PETS**

Health, sanitation and general consideration for others prohibit the keeping of pets on campus by students. Exception granted only to aquarium fish; maximum tank capacity of five gallons.

### **PHOTOCOPYING**

Copiers for general use are available in the Library and Stanley Nelson Centre. Students may purchase a copier card at the Library for use in any of these copiers. Coin-op access is also available in the Library. A discounted copying service is offered to students through the TWUSA Office, located in Douglas Centre.

### **POSSESSION, USE AND/OR SALE OF NONMEDICAL DRUGS**

The possession, use, or sale of illegal drugs is prohibited under the University's *Community Covenant* agreement.

### **POSTERS AND NOTICES**

Posters and notices must be stamped and dated by Student Life or TWUSA before they are displayed. Posters and notices should be posted on bulletin boards only and are not to be placed on glass doors or windows anywhere on campus. Municipal fire regulations prohibit posters and notices in resident lounges. Posters, notices, or decorations deemed offensive, excessive, or objectionable shall be removed.

### **PRANKS**

Pranks in the community can cause inconvenience, conflict, costly physical damage, and loss of personal dignity. Often starting as harmless pranks, situations tend to escalate so that successive pranks become more destructive than the preceding one(s). Activities that harm individuals physically, emotionally, or that damage personal or university property, are prohibited.

### **REFUNDS FOR VENDING AND LAUNDRY MACHINES**

If students lose money in one of the vending machines on campus, they should report it to the Campus Service Centre for a refund.

## ROLLERBLADES AND SKATEBOARDS

Sports activities, including skateboarding, rollerblading, hockey, etc., are NOT permitted in any parking areas or automobile roadways on Trinity Western University property. TWU wishes to maintain a safe campus community; failure to comply with these conditions may expose individuals to severe injury and property damage claims.

## SAFETY AND SECURITY

In a Christian university setting, a false sense of security can be inadvertently created. TWU desires to provide a safe and secure home for students. Students are expected to take an active role in ensuring a safe and secure environment. Please follow these basic safety guidelines:

- Fire doors, or any locked doors, should not be propped open as this can endanger the lives and belongings of everyone in the residence halls;
- Doors and window of rooms should be locked, and valuables kept in a safe place. Students should always carry their keys. It is recommended that students engrave valuables and record serial numbers. Students locked out of their building or room should call Security at ext. 2099. A \$7.00 unlock charge will be issued for this service;
- Students should not walk alone on the campus perimeter during evening hours. Students requiring an escort to their vehicle, or to another campus building, are encouraged to call Security at ext. 2099;
- Thefts and/or suspicious persons or incidents should be reported to Security immediately;
- Pizza, or other restaurant, delivery personnel should be met in residence hall lounges;
- Do not climb on building roofs or out of windows
- Use locks on computers and laptops to deter theft;
- Security concerns or suggestions? Security values students' input and suggestions; student safety is of the utmost concern! Please contact Security at ext. 2099.

*Students are reminded that Trinity Western University will not be liable directly or indirectly, for loss or theft of student personal property of any kind. This will also include, but not be limited to, damages from fire, water, or other causes. Students are advised to obtain personal insurance against such losses. For most students, it is possible to obtain coverage through a rider on their family tenant or homeowner insurance policy.*

## SELF-CARE

Part of being a member of community is to demonstrate through day-to-day actions that one is able to assure one's own welfare and meet normal obligations. This essentially means that students must agree to care for themselves, and behave in ways that will not cause problems for themselves or those around them, nor negatively impact the welfare, safety, and success of other community members.

Examples would include, but are not limited to, caring adequately for one's physical and emotional health, dealing appropriately with life challenges, getting along with others successfully, making adequate academic progress, and not causing, or threatening to cause, harm to one's self. It is also expected that students will seek out and/or accept professional assistance for those situations that they are unable to resolve on their own. If these self-care expectations are not met, students will be held accountable for their inappropriate behaviour and the negative impact on the community. Accountability may include being removed from campus housing and/or suspension from the university.

Students who require accommodation due to a documented disability, or significant, ongoing medical condition are required to contact the Director, Equity of Access and Learning Resources to discuss accessibility issues.

## SOCIAL DANCE

Social dances, both on and off campus, are only permitted when organized and sponsored by approved student groups or campus departments of the University. In all cases, dances will be kept modest, wholesome and fun. Organized and sponsored dances will be subject to the Event Approval and Room Booking Process of the University, administered through the Student Life Office. Organizers and sponsors will be responsible to communicate the expectations of the event to the participants, in order to ensure that the dance environment maintains the integrity of the standards of the University.

twu community members are expected to evaluate all forms of social dancing in light of the *Community Covenant*, abstaining from behaviours that do not reflect the values of the twu community. A complete description of twu's Social Dance Policy and corresponding Procedures is located at [twu.ca/studenthandbook/dance](http://twu.ca/studenthandbook/dance).

## SOLICITATION

[twu.ca/life](http://twu.ca/life)

Outside agencies, groups, or business representatives are not permitted to sell or solicit in the University residence halls, or on the campus, unless invited. Please report any solicitors to Security at ext. 2099. Any requests for off-campus solicitation, advertising, and marketing to students on campus must be vetted through the Student Life Office at ext. 3428, prior to any steps taken.

## STUDENT ASSOCIATIONS

[twusa.ca](http://twusa.ca); [twu.ca/students/twusa](http://twu.ca/students/twusa)

Every twu student enrolled in at least four (4) semester hours of courses is officially a member of the Trinity Western University Student Association (twusa). Every graduate twu student is officially a member of the Graduate Student Association (gsa). Each year a new student government is elected for each association. These members approve and provide accountability for student initiated events, activities, programs, and services on campus, and work as liaisons between administration and students. To get involved, go to the twusa office in Douglas Centre.

## STUDENT LEADERSHIP

[twu.ca/studentleadership](http://twu.ca/studentleadership)

Student Leadership is a great way to get involved, develop skills and gain valuable life experience. There are over 250 official student-leadership opportunities distributed among more than 50 unique roles. Check out the many possibilities on the Student Life website. Role descriptions, applications and reference forms are also available online.

## SUMMER HOUSING

Summer housing is available on a limited basis for students in registered university programs. Availability is subject to minimum occupancy requirements. For inquiries, call the Campus Service Centre at ext. 3405.

## TELEPHONES

[twu.ca/services/telecom/policy.aspx](http://twu.ca/services/telecom/policy.aspx)

Numerous telephone sets have been placed across the campus for public use. These phones are easily recognized by their BLUE colour, and have been configured to make free calls to campus extensions, local calling within the 604 area code, and most toll free numbers. Callers wishing to make long distance calls will be able to do so by utilizing a prepaid calling card. Prepaid calling cards can be purchased at the twu bookstore.

Outdoor phones are located at the Library entrance, Neufeld Science Centre entrance; Douglas Hall main entrance; Fraser Hall parking lot entrance; Gym entrance and on the second level of the new Music Centre.

Indoor phones are located in the following public areas: Reimer Student Centre main floor; Robert Thompson building lower lobby; Northwest Building lobby and Fosmark Centre main floor.

For questions concerning phone service, please contact Telecom Services at [telecom@twu.ca](mailto:telecom@twu.ca), or call 604.513.2111. For further information on twu's Telecomm Use Policy and Procedures, please go to [twu.ca/divisions/telecom/policy.aspx](http://twu.ca/divisions/telecom/policy.aspx). Use of the University's telecom services constitutes acceptance of this policy.

## TRAVEL

Local airline services are available through Vancouver International, Abbotsford, Bellingham and Seattle airports. Bus service between student residences and Vancouver International Airport is available with Airport Link Shuttle at 604.852.1999 (call for current schedule and rates). Bus service to the Abbotsford Airport is available with Valley Airporter Shuttle at 1.877.604.6688 (call for current schedule and rates). Bus service in the Langley community and surrounding area is available via Translink at 604.953.3333.

## WEAPONS

Weapons of any kind, including but not limited to, firearms, ammunition, replica firearms, sling shots, hunting knives or other large blades, BB or pellet guns, air-soft guns, or paintball guns, are not permitted on campus or at university-sponsored activities.

*Trinity Western University has a strict zero tolerance stance on weapons.*

## WITHDRAWALS

Any student who, after registration, finds it necessary to withdraw from the University, should request a withdrawal form at the Student Life Office and obtain signed approvals and releases from various departments as required. The date on which the complete form is submitted to the Student Life Office will be used by The Office of the Registrar for calculating refunds of tuition, residence fees, and any other fees that would apply. Upon withdrawing, residence keys, mail box keys, and Student ID cards are required to be returned.

# student guidelines living in residence

## DAMAGE ASSESSMENT

Trinity Western University reserves the right to do periodic maintenance and safety checks of all resident rooms as necessary, and may assess related fines if damages or violations to policies are discovered. If required, occupants of resident rooms or apartments will be assessed and billed for damage and/or cleaning costs. Roommates bear equal responsibility for damages unless a degree of responsibility can be individually assigned. Students causing excessive or wilful damage to residences or university property are subject to eviction.

## FIRE SAFETY

In compliance with municipal fire regulations, no cooking appliances, with or without exposed heat elements are to be used in resident rooms and/or lounges. In Robson and the apartments, all use of cooking appliances should be confined to kitchen areas. Resident rooms must be kept orderly and clean, maintaining clear and unobstructed exiting options for all community members. Halogen lamps, candles, incense or an open flame of any kind are prohibited in residence buildings. Live Christmas trees are also prohibited. Residents should ensure nothing comes into contact with fire suppression sprinkler heads or their protective covers in residence rooms or lounges to prevent accidental discharge and accompanying water damage. Residents should ensure they are aware of exiting plans and fire safety equipment for their building.



## FURNITURE REQUESTS

Residents missing any of the standard furniture should contact the Campus Service Centre. Light bulbs are available to residents from the Campus Service Centre at no charge.

## GUESTS

Overnight guests must be registered with the Campus Service Centre at least two days prior to their arrival, and residents are responsible for their guest's behaviour. If a guest violates any residence guideline, the resident host can be held responsible. As a courtesy to roommates and other students, residents may accommodate overnight guests in their room for a maximum of three nights per semester. In exceptional circumstances, the Campus Service Centre may grant extensions, and a charge may be assessed. Guests may not sleep in residence lounges.

## KEYS

Residence keys are distributed at registration. Replacement keys can be obtained at the Campus Service Centre for a charge, which will include re-keying of the door lock. Unauthorized possession or copying of keys is prohibited. All keys must be returned at the end of the academic session.

## LAUNDRY

Coin operated laundry rooms are located in or near all residence halls. Money lost in these machines can be reimbursed at the Campus Service Centre in exchange for the machine number and location. Any maintenance needed in the laundry rooms should be requested through the Maintenance Request procedures located at [twu.ca/helpdesk](http://twu.ca/helpdesk).

## LOCK-OUTS

Security is available by calling ext. 2099 to assist students who are locked out of their room. A nominal fee of \$7 is charged for this service.

## MAINTENANCE AND CUSTODIAL REQUESTS

[twu.ca/helpdesk](http://twu.ca/helpdesk)

General maintenance and custodial services are included within annual housing fees. As needed, maintenance will fix toilets, unplug shower drains, repair broken furniture, broken windows, sinks and shower taps, appliances, lights, door locks, etc.

To submit a request for maintenance and/or custodial assistance please access the Facility Services Helpdesk at [twu.ca/helpdesk](http://twu.ca/helpdesk) or call ext. 3515 and follow the auto prompts.

For emergency maintenance or custodial requests call ext. 3515 or Security at ext. 2099 for immediate assistance.

## POSTERS, NOTICES AND DECORATIONS

In compliance with municipal Fire Regulations, resident room walls and ceilings may have a maximum coverage of 20 percent, including posters, papers and pictures. Bookcases and closets are to be included in the 20 percent calculation. Posters, notices and decorations are prohibited in all residence lounges, exit corridors and stairways. In resident rooms, use staples or pins to hang posters and pictures. Tape and "plasti-tak" are not permitted. Posters or decorations deemed offensive or objectionable shall be removed.

## ROOM ASSIGNMENTS

Room assignments are completed after room deposits have been received. Specific building or room requests can be made on the housing application, but final room assignments cannot be guaranteed in advance. twu reserves the right to determine the best composition of students in each building to intentionally build communities that will achieve the mission of the university. Whenever possible, roommates are selected upon the basis of the compatibility of information provided on the residence application. Specific roommate requests can be made on the housing application, and when they

are received well in advance of the start of the semester, mutual roommate requests can usually be accommodated. TWU reserves the right to make temporary room arrangements if necessary, change room assignments, re-assign roommates, or consolidate vacancies by requiring students to move. Consolidation will most likely not occur until after the first three weeks of classes in any semester.

### **ROOM FURNISHINGS**

Residents are provided with a single bed, mattress, desk, desk chair, dresser, bookshelf, waste basket and desk lamp. These furnishings are the property of TWU and may not be re-modeled, removed or stored outside of the room. Unless provided for by TWU, sofas and loveseats are not permitted in individual rooms. Personal fridges, microwaves, hot plates, and other small electrical appliances are considered a fire hazard and are therefore not allowed in resident rooms. Students are responsible for the cleanliness of their own rooms.

### **ROOM INSPECTIONS**

Trinity Western reserves the right to have authorized personnel enter any unit or room for the purpose of inspection, repairs, or other official business. Authorized personnel may also enter rooms for investigation when they have reasonable grounds to believe that the well-being or safety of the occupants of the building are in jeopardy, or that a serious violation of university policy has occurred. During vacation periods, public safety personnel may make safety inspections.

### **ROOM MODIFICATIONS**

Rooms must not be modified in any way that will cause permanent damage or create any obstruction to egress. This includes, but is not limited to, making any alterations to the existing walls, floor, ceiling or furniture. Beds are bunked in some areas and not in others and they must stay in the same condition in which they are found. Students may not modify beds, nor will maintenance staff be available to do so. Should modifications take place that are prohibited or found unsafe, students will be billed for returning rooms to original condition.

### **ROOM OR ROOMMATE CHANGES**

While resolving conflicts is preferred to avoiding them, sometimes extenuating circumstances may necessitate a room or roommate change. A student's request for a room change should be directed to his or her Resident Director, and all room changes must be approved by an RD prior to moving. Unreported moves are prohibited. Room-change requests will not be approved during the first two weeks of each semester.

### **SINGLE ROOMS**

All residence rooms are established as double occupancy; however, single rooms can be requested on the residence application. Single rooms are only available as space permits. A single room charge will apply to students that have requested and been granted single rooms.

### **STORAGE**

Temporary storage of personal items is available for residents on a limited basis. Access to the storage rooms can be obtained through the Campus Service Centre or through a Resident Assistant. All items are stored "at your own risk" and must be in boxes, bags, or suitcases that are clearly labelled with the student's name and a current date. Storage of furniture is not permitted in TWU Storage. Unclaimed, unmarked, or unapproved items will be sent to a local charity at the end of each academic year.

## TELEPHONE SERVICE

[twu.ca/telecom](http://twu.ca/telecom)

Telecom Services provides phone service for all residents. Each residence room is equipped with a phone line that is activated for local calling and voicemail. Instructions for setup are posted in each room. More detailed information and Long Distance plans are available via the Telecom website. For questions concerning phone services, please contact Telecom Services at [telecom@twu.ca](mailto:telecom@twu.ca), or call 604.513.2111. Use of the University's phone services constitutes acceptance of TWU's Telecom Use Policy and Procedures ([twu.ca/divisions/telecom/policy.html](http://twu.ca/divisions/telecom/policy.html)).

## VACUUMS

Vacuums are available in residence halls for student use, and may be accessed by talking to the Building Service Worker in each area. Vacuums must be signed out and returned as soon as possible for use by others.

# university policies community covenant agreement

[twu.ca/studenthandbook/policies.aspx](http://twu.ca/studenthandbook/policies.aspx)

Every community has conduct expectations for its members. As an evangelical Christian community, the University has formulated a set of behavioural responsibilities that apply to students, staff, and faculty. These responsibilities reflect the values of Trinity Western as an academic, disciple making community. People who become members of the community are asked to comply with the University's *Community Covenant Agreement* as a matter of respect for the values of this community even though the standards may not reflect their personal convictions in every detail.

The *Community Covenant* is included within the application process, and those applying for community membership should read the statement carefully. Maintenance of one's integrity with regard to the *Community Covenant* is essential for continued membership in the community. Once a commitment has been indicated through signature, failure to respect the *Community Covenant* is a breach of personal integrity, a matter that may, in some cases, be of greater concern than the violation itself.

## COMMUNITY COVENANT AGREEMENT

### *Our Pledge to One Another*

Trinity Western University (twu) is a Christian university of the liberal arts, sciences and professional studies with a vision for developing people of high competence and exemplary character who distinguish themselves as leaders in the marketplaces of life.

### 1. The TWU Community Covenant

The University's mission, core values, curriculum and community life are formed by a firm commitment to the person and work of Jesus Christ as declared in the Bible. This identity and allegiance shapes an educational community in which members pursue truth and excellence with grace and diligence, treat people and ideas with charity and respect, think critically and constructively about complex issues, and willingly respond to the world's most profound needs and greatest opportunities.

The University is an interrelated academic community rooted in the evangelical Protestant tradition; it is made up of Christian administrators, faculty and staff who, along with students choosing to study at TWU, covenant together to form a community that strives to live according to biblical precepts, believing that this will optimize the University's capacity to fulfil its mission and achieve its aspirations.

The *community covenant* is a solemn pledge in which members place themselves under obligations on the part of the institution to its members, the members to the institution, and the members to one another. In making this pledge, members enter into a contractual agreement and a relational bond. By doing so, members accept reciprocal benefits and mutual responsibilities, and strive to achieve respectful and purposeful unity that aims for the advancement of all, recognizing the diversity of viewpoints, life journeys, stages of maturity, and roles within the TWU community. It is vital that each person who accepts the invitation to become a member of the TWU community carefully considers and sincerely embraces this *Community Covenant*.

## 2. Christian Community

The University's acceptance of the Bible as the divinely inspired, authoritative guide for personal and community life<sup>1</sup> is foundational to its affirmation that people flourish and most fully reach their potential when they delight in seeking God's purposes, and when they renounce and resist the things that stand in the way of those purposes being fulfilled.<sup>2</sup> This ongoing God-enabled pursuit of a holy life is an inner transformation that actualizes a life of purpose and eternal significance.<sup>3</sup> Such a distinctly Christian way of living finds its fullest expression in Christian love, which was exemplified fully by Jesus Christ, and is characterized by humility, self-sacrifice, mercy and justice, and mutual submission for the good of others.<sup>4</sup>

This biblical foundation inspires TWU to be a distinctly Christian university in which members and others observe and experience truth, compassion, reconciliation, and hope.<sup>5</sup> TWU envisions itself to be a community where members demonstrate concern for the well-being of others, where rigorous intellectual learning occurs in the context of whole person development, where members give priority to spiritual formation, and where service-oriented citizenship is modeled.

## 3. Community Life at TWU

The TWU *Community Covenant* involves a commitment on the part of all members to embody attitudes and to practise actions identified in the Bible as virtues, and to avoid those portrayed as destructive. Members of the TWU community, therefore, commit themselves to:

- Cultivate christian virtues, such as love, joy, peace, patience, kindness, goodness, faithfulness, gentleness, self-control, compassion, humility, forgiveness, peacemaking, mercy and justice<sup>6</sup>
- Live exemplary lives characterized by honesty, civility, truthfulness, generosity and integrity<sup>7</sup>
- Communicate in ways that build others up, according to their needs, for the benefit of all<sup>8</sup>
- Treat all persons with respect and dignity, and uphold their god-given worth from conception to death<sup>9</sup>
- Be responsible citizens both locally and globally who respect authorities, submit to the laws of this country, and contribute to the welfare of creation and society<sup>10</sup>
- Observe modesty, purity and appropriate intimacy in all relationships, reserve sexual expressions of intimacy for marriage, and within marriage take every reasonable step to resolve conflict and avoid divorce<sup>11</sup>

The Biblical passages cited in this document serve as points of reference for discussion or reflection on particular topics. TWU recognizes the necessity of giving careful consideration to the complexities involved in interpreting and applying biblical passages to contemporary issues and situations.

1 Deuteronomy 6:4-9; Psalm 19:7-11; 2 Timothy 3:16

2 Matthew 6:31-33; Romans 8:1-17; 12:1-2; 13:11-14; 16:19; Jude 20-23; 1 Peter 2:11; 2 Corinthians 7:1

3 2 Peter 1:3-8; 1 Peter 2:9-12; Matthew 5:16; Luke 1:74-75; Romans 6:11-14, 22-23; 1 Thessalonians 3:12-13, 4:3, 5:23-24; Galatians 5:22; Ephesians 4:22-24, 5:8

4 Matthew 22:37-40; 1 Peter 5:5; Romans 13:8-10; 1 John 4:7-10; Philippians 2:1-5; 1 Corinthians 12:31b-13:8a; Romans 12:1-3, 9-10; John 15:12-13, 17; 1 John 3:10-11, 14-16; Ephesians 5:1-2, 21

5 From TWU's "Envision the Century" Strategic Directions Document, p 5 ("Ends")

6 Galatians 5:22-24; Colossians 3:12-17; Isaiah 58:6-8; Micah 6:8

7 Proverbs 12:19; Colossians 3:9; Ephesians 4:25; Leviticus 19:11; Exodus 20:16; Matthew 5:33-37

8 Ephesians 4:29; Proverbs 25:11; 1 Thessalonians 5:11

9 Ephesians 4:29; Proverbs 25:11; 1 Thessalonians 5:11

10 Romans 13:1-7; 1 Peter 2:13-17; Genesis 1:28; Psalm 8:5-8; 2 Thessalonians 3:6-9

11 Genesis 2:24; Exodus 20:14, 17; 1 Corinthians 7:2-5; Hebrews 13:4; Proverbs 5:15-19; Matthew 19:4-6; Malachi 2:16; Matthew 5:32

- Exercise careful judgment in all lifestyle choices, and take responsibility for personal choices and their impact on others<sup>12</sup>
- Encourage and support other members of the community in their pursuit of these values and ideals, while extending forgiveness, accountability, restoration, and healing to one another.<sup>13</sup>

In keeping with biblical and TWU ideals, community members voluntarily abstain from the following actions:

- Communication that is destructive to TWU community life and inter-personal relationships, including gossip, slander, vulgar/obscene language, and prejudice<sup>14</sup>
- Harassment or any form of verbal or physical intimidation, including hazing
- Lying, cheating, or other forms of dishonesty including plagiarism
- Stealing, misusing or destroying property belonging to others<sup>15</sup>
- Sexual intimacy that violates the sacredness of marriage between a man and a woman<sup>16</sup>
- The use of materials that are degrading, dehumanizing, exploitive, hateful, or gratuitously violent, including, but not limited to pornography
- Drunkenness, under-age consumption of alcohol, the use or possession of illegal drugs, and the misuse or abuse of substances including prescribed drugs
- The use or possession of alcohol on campus, or at any TWU sponsored event, and the use of tobacco on campus or at any TWU sponsored event.

#### 4. Areas for Careful Discernment and Sensitivity

A heightened level of discernment and sensitivity is appropriate within a Christian educational community such as TWU. In order to foster the kind of campus atmosphere most conducive to university ends, this covenant both identifies particular Christian standards and recognizes degrees of latitude for individual freedom. True freedom is not the freedom to do as one pleases, but rather empowerment to do what is best.<sup>17</sup> TWU rejects legalisms that mistakenly identify certain cultural practices as biblical imperatives, or that emphasize outward conduct as the measure of genuine Christian maturity apart from inward thoughts and motivations. In all respects, the TWU community expects its members to exercise wise decision-making according to biblical principles, carefully accounting for each individual's capabilities, vulnerabilities, and values, and considering the consequences of those choices to health and character, social relationships, and God's purposes in the world.

TWU is committed to assisting members who desire to face difficulties or overcome the consequences of poor personal choices by providing reasonable care, resources, and environments for safe and meaningful dialogue. TWU reserves the right to question, challenge or discipline any member in response to actions that impact personal or social welfare.

#### WISE AND SUSTAINABLE SELF-CARE

The University is committed to promoting and supporting habits of healthy self-care in all its members, recognizing that each individual's actions can have a cumulative impact on the entire community. TWU encourages its members to pursue and promote: sustainable patterns of sleep, eating, exercise, and preventative health; as well as sustainable rhythms of solitude and community, personal spiritual disciplines, chapel and local church participation,<sup>18</sup> work, study and recreation, service and rest.

<sup>12</sup> Proverbs 4:20-27; Romans 14:13,19; 1 Corinthians 8:9,12-13, 10:23-24; Ephesians 5:15-16

<sup>13</sup> James 5:16; Jude 20-23; Romans 12:14-21; 1 Corinthians 13:5; Colossians 3:13.

<sup>14</sup> Colossians 3:8; Ephesians 4:31

<sup>15</sup> Exodus 20:15; Ephesians 4:28

<sup>16</sup> Romans 1:26-27; Proverbs 6:23-35

<sup>17</sup> Galatians 5:1,13; Romans 8:1-4; 1 Peter 2:16

<sup>18</sup> Ephesians 5:19-20; Colossians 3:15-16; Hebrews 10:25

## HEALTHY SEXUALITY

People face significant challenges in practicing biblical sexual health within a highly sexualized culture. A biblical view of sexuality holds that a person's decisions regarding his or her body are physically, spiritually and emotionally inseparable. Such decisions affect a person's ability to live out God's intention for wholeness in relationship to God, to one's (future) spouse, to others in the community, and to oneself.<sup>19</sup> Further, according to the Bible, sexual intimacy is reserved for marriage between one man and one woman, and within that marriage bond it is God's intention that it be enjoyed as a means for marital intimacy and procreation.<sup>20</sup> Honouring and upholding these principles, members of the TWU community strive for purity of thought and relationship,<sup>21</sup> respectful modesty,<sup>22</sup> personal responsibility for actions taken, and avoidance of contexts where temptation to compromise would be particularly strong.<sup>23</sup>

## DRUGS, ALCOHOL AND TOBACCO

The use of illegal drugs is by definition illicit. The abuse of legal drugs has been shown to be physically and socially destructive, especially in its potential for forming life-destroying addictions. For these reasons, TWU members voluntarily abstain from the use of illegal drugs and the abuse of legal drugs at all times.

The decision whether or not to consume alcohol or use tobacco is more complex. The Bible allows for the enjoyment of alcohol in moderation,<sup>24</sup> but it also strongly warns against drunkenness and addiction, which overpowers wise and reasonable behaviour and hinders personal development.<sup>25</sup> The Bible commends leaders who abstained from, or were not addicted to, alcohol.<sup>26</sup> Alcohol abuse has many long-lasting negative physical, social and academic consequences. The Bible has no direct instructions regarding the use of tobacco, though many biblical principles regarding stewardship of the body offer guidance. Tobacco is clearly hazardous to the health of both users and bystanders. Many people avoid alcohol and/or tobacco as a matter of conscience, personal health, or in response to an addiction. With these concerns in mind, TWU members will exercise careful discretion, sensitivity to others' conscience/principles, moderation, compassion, and mutual responsibility. In addition, TWU strongly discourages participation in events where the primary purpose is the excessive consumption of alcohol.

## ENTERTAINMENT

When considering the myriad of entertainment options available, including print media, television, film, music, video games, the internet, theatre, concerts, social dancing, clubs, sports, recreation, and gambling, TWU expects its members to make personal choices according to biblical priorities, and with careful consideration for the immediate and long-term impact on one's own well-being, the well-being of others, and the well-being of the University. Entertainment choices should be guided by the pursuit of activities that are edifying, beneficial and constructive, and by a preference for those things that are "true, noble, right, pure, lovely, admirable, excellent, and praiseworthy,"<sup>27</sup> recognizing that truth and beauty appear in many differing forms, may be disguised, and may be seen in different ways by different people.

## 5. Commitment and Accountability

This covenant applies to all members of the TWU community, that is, administrators, faculty and staff employed by TWU and its affiliates, and students enrolled at TWU or any affiliate program. Unless specifically stated otherwise, expectations of this covenant apply to both on and off TWU's campus and extension sites. Sincerely embracing every part of this covenant is a requirement for employment. Employees who sign this covenant also commit themselves to abide by campus policies published in their respective Faculty and Staff Handbooks. TWU welcomes all students who qualify

19 1 Corinthians 6:18-19

20 Genesis 2:24; Exodus 20:14,17; 1 Corinthians 7:2-5; Hebrews 13:4; Proverbs 31:15-19; Matthew 19:4-6.

21 Matthew 5:27-28; 1 Timothy 5:1-2; 1 Thessalonians 4:3-8; Job 31:1-4; Psalm 101:2-3

22 1 Peter 3:3-4; 1 Timothy 2:9-10

23 1 Corinthians 6:18; 10:13; 2 Timothy 2:22; James 4:7

24 Deuteronomy 7:13, 11:14; Psalm 104:15; Proverbs 3:10; Isaiah 25:6; John 2:7-11; 1 Timothy 5:23

25 Genesis 9:20-21; Proverbs 20:1; 31:4; Isaiah 5:11; Habakkuk 2:4-5; Ephesians 5:18

26 Daniel 1:8, 10:3; Luke 1:15; 1 Timothy 3:3,8; Titus 2:3

27 Philippians 4:8

for admission, recognizing that not all affirm the theological views that are vital to the University's Christian identity. Students sign this covenant with the commitment to abide by the expectations contained within the *Community Covenant*, and by campus policies published in the Academic Calendar and Student Handbook.

Ensuring that the integrity of the TWU community is upheld may at times involve taking steps to hold one another accountable to the mutual commitments outlined in this covenant. As a covenant community, all members share this responsibility. The University also provides formal accountability procedures to address actions by community members that represent a disregard for this covenant. These procedures and processes are outlined in the Student, Staff, and Faculty Handbooks and will be enacted by designated representatives of the University as deemed necessary.

*By my agreement below I affirm that:*

*I have accepted the invitation to be a member of the TWU community with all the mutual benefits and responsibilities that are involved;*

*I understand that by becoming a member of the TWU community I have also become an ambassador of this community and the ideals it represents;*

*I have carefully read and considered TWU's Community Covenant and will join in fulfilling its responsibilities while I am a member of the TWU community.*

## student accountability process

Trinity Western University is a unique and dynamic disciple-making and academic community. Every member of the community—faculty, staff and fellow students—engage each other in Trinity Western University's mission to prepare godly Christian leaders. Once invited to become members, students become "co-owners" of the mission and are accountable to every other member of the community to contribute to a positive and rewarding learning environment. This accountability is facilitated through a *Community Covenant* commitment all students sign and which is fully outlined in the general University Policies section.

If a student fails to maintain his or her commitment to the *Community Covenant* and/or policies and guidelines of the University as outlined in the Student Handbook, Academic Calendar and TWU website, an accountability process exists that is structured around the goal of bringing the student back into relationship with the community while contributing to the student's personal and spiritual growth. Initial and/or minor violations may be dealt with through a discussion process facilitated by Student Life staff. Subsequent and/or more serious breaches of the *Community Covenant* may be dealt with in a formal process overseen by the Director of Community Life or Associate Provost. Such cases may be referred to a Community Council or the University's Accountability Committee, consisting of faculty, staff and students, for resolution.

In every instance, the University seeks to prayerfully and objectively assess what has occurred, demonstrate care and acceptance for the individual involved, help build understanding and commitment to community responsibilities, and encourage the individual to accept accountability for his or her behaviour as a member of the TWU community. If a student, in the opinion of the University, is unable, refuses or fails to live up to their commitment, the University reserves the right to discipline, dismiss, or refuse a student's re-admission to the University.

### STUDENT ACCOUNTABILITY POLICY

Trinity Western University has established standards of conduct, which are intended to contribute to a learning environment conducive to the accomplishment of its mission. Admission to the University is limited to those who agree to comply with these behavioural expectations which apply to every student whether a resident or commuter both on and off campus. In situations involving

suspected violations of the *Community Covenant* and/or policies and guidelines of the University, students can expect a fair and reasonable response from the University. The Student Accountability Policy in its entirety appears below.

### THE GOAL OF THE ACCOUNTABILITY PROCESS

The goal of the accountability process is to contribute to both the student's personal and spiritual growth. The objectives of the process are:

- To prayerfully and objectively assess what has occurred and indicate to the student what violation(s) has (have) been committed;
- To demonstrate care and acceptance for the individual even if behaviour may be unacceptable;
- To educate the student, explaining the reasons for the *Community Covenant* and/or policies and guidelines of the University;
- To have students decide that their future behaviour will be in keeping with their original commitment to the community through the University's *Community Covenant* and/or policies and guidelines of the University;
- To have the student accept accountability for his or her behaviour;
- To balance the needs of an individual along with the needs of the greater community.

Experience holding individuals accountable to their word has tended to show that repeated violations of the *Community Covenant* and/or policies and guidelines of the University are often indicators of larger issues in the life of a student. It is hoped, therefore, that the accountability process may ultimately challenge the pursuit of change, godliness and character development within individuals.

### CONDUCT EXPECTATIONS

Each student who accepts an invitation of admission to Trinity Western University has agreed to accept the *Community Covenant* and/or policies and guidelines of the University for living in accordance with the community standards of this private, creedal Christian academic community. These are specified in the *Community Covenant* contract that each student signs. It is the responsibility of each student to clarify any misunderstanding that may arise in their mind before committing their signature to this contract. The University does not view a student's agreement to comply with these standards and guidelines as a mere formality. Therefore, students who find themselves unable to maintain the integrity of their commitment should seek a living-learning situation more acceptable to them.

### ACCOUNTABILITY PROCEDURES

In Christian love, respect and responsibility, students are encouraged to seek resolution when tension, misunderstanding, conflict, failure or disagreements have fractured relationship. It is expected that as adult learners, members of our community will seek mutual solution to problems that arise within the context of daily living together. Persisting through personal shortfalls is essential and foundational to successful community living. At a grass roots level, it is expected and encouraged that students, staff and faculty will hold each another accountable to the commitments each has made to the University and community. Disregard for community responsibility and accountability is considered inappropriate behaviour, viewed as jeopardizing the effectiveness of the learning environment and mission of the University. Students are encouraged to reflect upon their own goals and values to ensure that they are not in conflict with the educational environment in which they have chosen to learn.

The student accountability process may be initiated as a result of a complaint against a student brought to Student Life by another member of the community or as a result of concerns from the community regarding a student's conduct.



### INFORMAL ACCOUNTABILITY PROCESS (MINOR INCIDENTS)

In minor incidents, a designated Student Life staff member will follow up on the allegation or incident. This involves discussing the allegation or incident with the student(s) and determining an appropriate response (verbal or official warning, community service, suitable apologies, fine or appropriate restitution).

Decisions of a Student Life staff member may be appealed, by the student and in writing, to the Director of Community Life within 48 hours of being informed of the decision. A \$100 administration fee is required prior to consideration and will be refunded if the appeal is granted. Until an appeal is granted the original decision remains in effect.

Students are encouraged to informally challenge one another and hold each other accountable to the *Community Covenant* and/or policies and guidelines of the University out of genuine concern for others within the University community.

Community members, directly working with students in leadership or representative roles may be notified of violations or incidents involving student working within their care.

### FORMAL ACCOUNTABILITY PROCESS (MORE SERIOUS INCIDENTS)

In more serious cases, the formal accountability process will be enacted. The formal accountability process often begins when a community member becomes aware of an alleged violation of *Community Covenant* and/or policies and guidelines of the University either through first hand knowledge or on report of an incident. It may also begin when the seriousness of an allegation warrants immediately moving to the formal accountability process or if a problem persists and cannot be solved through the informal accountability process.

#### *stage one*

An Assistant Director of Community Life or appropriate designate may make the decision that a case moves from informal accountability to the formal accountability process. When this decision is made, the student(s) who has/have been named in the allegation of misconduct will be informed that the allegation is being investigated. Pertinent information is collected to determine if there is sufficient cause for accountability action.

It is the responsibility of Assistant Directors of Community Life or appropriate designate to receive complaints and investigate possible violations of *Community Covenant* and/or policies and guidelines of the University. In the event that an Assistant Director of Community Life or appropriate designate, in his/her sole discretion believes that additional action is required, he/she will schedule an interview with the student. An Assistant Director of Community Life or appropriate designate is responsible to arrange for and conduct an interview with the student, which may include other parties affected by or involved in the incident. Written confirmation of the date and time of the interview will be sent to the student's university email address prior to the scheduled appointment. At the same time the student will be informed of the availability of a counsellor, who may be seen in confidence and at no cost for personal support through the student accountability process. Students are responsible for all communication that is placed in their campus mailbox and sent to their university email address. Once investigated and interviewed, the matter will be referred to the Director of Community Life who, at his/her sole discretion, will either render a decision or refer the matter to the Community Council. If referred to the Community Council, the Director of Community Life will schedule a meeting and notify the student in writing of its date and time, and of the student's rights and responsibilities.

Decisions of the Director of Community Life or Community Council may be appealed, by the student and in writing, to the Associate Provost within 72 hours of being informed of the decision. A \$100 administration fee is required prior to consideration and will be refunded if the appeal is granted. Until an appeal is granted the original decision remains in effect.

### *stage two*

The Director of Community Life, at his/her sole discretion, may refer the matter to the Associate Provost (e.g. a referral of plagiarism and/or academic dishonesty; in the case of repeated or multiple offences; the student has made deceptive or dishonest statements at the interview; or due to the grievous nature of the violation to the *Community Covenant* and/or policies and guidelines of the University). The Associate Provost, at his/her sole discretion, will either render a decision or refer the matter to the University's Accountability Committee.

If referred to the University's Accountability Committee, the Associate Provost will schedule a meeting and notify the student in writing of its date and time, and of the student's rights and responsibilities.

Decisions of the Associate Provost or the University's Accountability Committee may be appealed, by the student and in writing, to the office of the President within 96 hours of being informed of the decision. A \$100 administration fee is required prior to consideration and will be refunded if the appeal is granted. Until an appeal is granted, the original decision remains in effect.

Community members, directly working with students in leadership or representative roles may be notified of violations or incidents involving student working within their care.

## COMMUNITY COUNCIL AND THE UNIVERSITY'S ACCOUNTABILITY COMMITTEE

If selected to appear before the Community Council or the University's Accountability Committee, the student will have the right to appear at the meeting, the right to invite one person, a friend or relative, and the right to knowledge of the evidence upon which the allegations are based. The chair of the Community Council or the University's Accountability Committee will provide information to the student regarding the procedures to be followed in the meeting. The meeting will be closed to the public, except for one friend or relative for personal support. Formal rules of evidence will not apply nor will harmless procedural errors invalidate a decision. Failure to appear will result in a default decision. Final decisions of the Community Council or the University's Accountability Committee will be by majority vote of the members present and voting. The Director of Community Life, on behalf of the Community Council, will notify the student in writing of relevant decisions and the council's rationale for each. The Associate Provost, on behalf of the University's Accountability Committee, will notify the student in writing of relevant decisions and the committee's rationale for each.

The Community Council includes four members. Appointments to the council are made as follows: one faculty member appointed by the Vice Provost; one staff member and one Resident Assistant appointed by the Director of Community Life; and one student appointed by the Trinity Western University Student Association Executive upon approval from the Director of Community Life. Three members shall constitute a quorum. The Director of Community Life serves as chair and deciding vote in the event of a tie. Minutes of the committee's meetings are kept confidential.

The Accountability Committee includes seven members. Appointments to the committee are made as follows: two faculty members appointed by the Vice Provost for Academics; two staff members appointed by the Associate Provost; and three students, two appointed by the Trinity Western University Student Association Executive and one Resident Assistant appointed by the Director of Community Life upon approval from the Associate Provost. Four members shall constitute a quorum. The Associate Provost serves as chair and deciding vote in the event of tie. Minutes of the committee's meetings are kept confidential.

## EMERGENCY TEMPORARY SUSPENSION

In exceptional circumstances, the Associate Provost or designate may issue an immediate, temporary suspension prior to the completion of the Formal Accountability Process. This action will be taken when it is reasonable to conclude that serious misconduct has occurred and/or that a student's continued presence on campus presents an unreasonable risk to the safety of him/herself or others. Students receiving this suspension must leave the campus immediately. The Formal Accountability Process will proceed, and the Emergency Temporary Suspension will be replaced by the decision rendered at the end of this process.

## POSSIBLE ACCOUNTABILITY ACTIONS

**Miscellaneous Consequences** - this may include a variety of actions such as an apology, community service, fine, loss of a services and payment for recovery of damaged property.

**Official Warning** - an explanation of the relevant *Community Covenant* and/or policies and guidelines of the University is accompanied by a written warning that future violations would likely result in conduct accountability. A temporary record is kept.

**Conduct Accountability** - a designated staff/faculty member will be made available to the student for regular mentorship and/or accountability meetings. Other conditions may be added. Failure to meet the conditions of a conduct accountability agreement would likely result in probation. Parents of students under 21 years of age may be notified. Conduct accountability may extend for one or two semesters. A temporary record is kept with the student's transcript.

**Probation** - the student remains enrolled with the understanding that further violations of *Community Covenant* and/or policies and guidelines of the University would likely result in suspension. Probation impacts financial aid, participation on athletic and drama teams, in music groups and in student leadership positions. Parents of students under 21 years of age may be notified. Probation may extend for one or two semesters. A temporary record is kept with the student's transcript.

**Suspension** - an involuntary separation of the student from the University for a specified length of time. Parents of students under 21 years of age are notified and a temporary record is kept with the student's transcript. Students are not allowed on campus without express permission and are not permitted to attend classes or TWU events on or off campus while suspended.

**Expulsion** - a permanent separation of the student from the University with a permanent notation on the student's transcript. Parents of students under 21 are notified.

The University reserves the right to impose probation, suspension or expulsion upon students for cases of plagiarism and academic dishonesty in addition to the typical academic penalties which may include being required to submit additional work, resubmit an assignment, accept a lower grade, accept a zero for the work, being barred from the final exam, receive a failure in the course and/or have a notation made in your permanent student file.

## ACCOUNTABILITY ACTION PRECEDENT

Although each situation is considered on an individual basis, repeated violations of the *Community Covenant* and/or policies and guidelines of the University are taken into consideration when consequences for chosen behaviours are determined. As well, because the University values community, the welfare of the community will be balanced against the rights of the individual as accountability decisions are made.

The following are examples of likely consequences for first offences based upon TWU values and previous accountability decisions in order to assist students in having a realistic view of the seriousness of violating the *Community Covenant* and/or policies and guidelines of the University. It should be kept in mind, however, that each case is considered on an individual basis.

**Miscellaneous Consequences or Official Warning** - deliberate conflict, pranks, misuse of telephone, computer equipment, or network/internet service, open residence violations, use of tobacco on campus and/or damaged property.

**Conduct Accountability or Probation** - violations of the alcohol policy, accessing pornography, dishonesty, and/or behaviours that are destructive to community.

**Suspension (short term)** - alcohol use or possession on campus, aggressive behaviour towards another student, pranks that cause property damage, theft, copying of keys, unauthorized use of keys, vandalism, sexual misconduct, and/or use of drugs.

**Suspension (long term) or Expulsion** - recurring plagiarism, breaking and entering, providing alcohol to minors, possession of a weapon, harassment, assault, sexual assault, sale or distribution of drugs, arson, repeat offences and/or acts of greater severity.

### Accountability Appeals

Prior to appealing accountability decisions within the Student Accountability Process, students should ensure that one or more of the following apply:

- New information has become available that would have altered the original decision.
- The original decision is significantly disproportionate to the offense.
- A substantive violation in the process calls into question the fairness of the process and/or initial decision.

### ACADEMIC DISHONESTY AND PLAGIARISM

One of the core values of Trinity Western University is the integration of high standards of personal, moral, and spiritual integrity with academic excellence. As such, the University considers any case where an individual knowingly acts or fails to act in a manner to gain unearned academic credit to be a serious offence. It is the student's responsibility to inform themselves as to what constitutes academic dishonesty, and to address any questions that they have in this respect to the individual professors with whom they are dealing. It is the instructor's responsibility to confront any student who, in the instructor's judgment, has committed an act of academic dishonesty. The penalty for an act of academic dishonesty will be assigned according to procedures listed below. The University does not record acts of academic dishonesty on student transcripts, but does keep a permanent record of such acts indefinitely for internal purposes.

#### *definition of terms*

**Academic Dishonesty:** to act in a manner to gain unearned academic credit; examples of academic dishonesty include, but are not limited to:

- Plagiarism (see below);
- Cheating on examinations, tests, etc.;
- Falsifying labs results;
- Impersonating another student in an examination, test, etc.;
- Falsifying or misrepresenting information on academic records or official documents;
- Submitting the same or substantially the same work for credit in more than one course, without faculty permission (whether the earlier submission was at TWU or another institution);
- Aiding or abetting another student's academic dishonesty.

**Plagiarism:** "plagiarism (from a Latin word for 'kidnapper') is the presentation of someone else's ideas or words as your own." (The Little, Brown Handbook, 2nd Can. Ed. 555).

**Knowingly:** if the person ought reasonably to have known.

### PROCEDURES FOR DEALING WITH ACTS OF ACADEMIC DISHONESTY

1. If an instructor suspects that a student has committed an act of academic dishonesty, the instructor shall determine if an offense has been committed by reviewing all relevant information and discussing the situation with the student.

2. If the instructor determines that an offence has been committed, the instructor shall query the Academic Dishonesty database to see if the student in question has committed a prior offence prior to assigning a penalty.
3. If it is the student's first offence, the instructor will impose an appropriate penalty and note this on the form entitled Record of Academic Dishonesty, copies of which are then given to the student by the instructor and submitted to the Office of the Provost. For a first offence, the penalty will normally range from redoing the assignment to receiving a zero for the assignment/examination involved. Students may appeal the faculty member's decision to the Faculty/School Dean, whose decision is final.
4. If it is not the student's first offence, the instructor will consult with his/her Dean who will recommend an appropriate penalty to the Vice Provost, who will decide on the penalty. For a second offence, the penalty will normally range from receiving a zero on the assignment or examination to failing the course. For a third or higher offence, the penalty will normally range from failing the course to being suspended or expelled from the University. The instructor shall complete the Record of Academic Dishonesty and submit it to the Vice Provost who will meet with the student. For penalties up to failing the course, students may appeal the Vice Provost's decision to the Provost, whose decision is final.
5. In cases involving a recommendation for suspension or expulsion, the Vice Provost shall forward the recommendation to the chair of the University Accountability Committee to begin stage two of the University's formal Student Accountability Process. Students are entitled to hearings and appeals set out by that process.
6. In all cases, every effort will be made to process the review/decision in a timely fashion.

## PROTECTION OF PRIVACY AND INFORMATION

[twu.ca/governance/policies/privacy.html](http://twu.ca/governance/policies/privacy.html)

The University gathers and maintains information used for the purposes of admission, registration, student assessment, grade records, and other activities related to being a member of the Trinity Western community. The information provided by applicants and students will be used in compliance with the British Columbia Privacy Act. The University Registrar serves as the privacy officer for student-related matters. The twu Privacy Policy can be found at: [twu.ca/governance/policies/privacy.html](http://twu.ca/governance/policies/privacy.html).

## GUIDELINES FOR STUDENTS, STAFF AND FACULTY IN THE ADMINISTRATION OF THE HARASSMENT POLICY

Upon joining Trinity Western University, students, faculty, and staff agree to accept the *Community Covenant*. The University insists that its members follow biblical principles of lifestyle and conduct and refrain from biblically prohibited practices. The *Community Covenant* expresses some of the lifestyle and conduct expectations which contribute to our distinctiveness as a Christian academic community and make possible the creation of a living learning environment conducive to the accomplishment of the University's mission "to develop godly Christian leaders."

The University is committed to providing a community in which all individuals are treated with respect and dignity, free from harassment. The University considers harassment a serious offence, and will not tolerate behaviour that may undermine the respect, dignity, self-esteem, or productivity of any student, faculty, staff, or administrative member.

## POLICIES AND PROCEDURES

The Harassment Policy document is available on-line or from the Student Life Office for students, from the Office of the Provost for faculty, and from Human Resources for staff. This document contains sections on policy, purposes, seriousness, retaliation, confidentiality, application of the policy, and definitions. The Procedures document is also available from the same offices as stated above. It contains sections on roles and responsibilities, complaint procedure, investigation procedure, appeal process, results of the investigation, and records of complaint. As well, appropriate appendixes of lists and forms are included for use during the procedures.

## PREFERRED ACTION

It is the University's desire to see any instances of possible harassment resolved quickly and in a Christian manner. Such an approach, when sincerely engaged through to resolution, is honouring to the Lord and brings a peace and contentment that will mature and grow the Christian faith. Therefore, the University encourages anyone with a possible harassment complaint to carefully consider the informal resolution process that is available as part of this policy. This can be accomplished through informal interaction with the contact person (see below) or by engaging the Mutual Resolution or Fast Track Process under points 3.3 and 3.4 of the Procedures document. This encouragement for use of the informal process should not be construed to suppress any individual's desire or decision to invoke a formal process of investigation and resolution. The formal process is always available.

## CONTACT PERSON

If students have any concern about possible harassment, the Contact Person is their point of initial contact. There are six such individuals available on campus, and all have been trained in dealing with harassment issues. The list of Contact Persons is posted on boards around campus. A student's initial discussion with a Contact Person is confidential. If a complaint of harassment is to proceed into a formal investigation, then such complaints will need to be put into written form.

As a complainant, students are encouraged to keep written records of consultation discussions. Contact Persons, however, will NOT keep records of the discussion unless they proceed to a formal investigation. Anonymous complaints will not be accepted or investigated. In the event a complaint is received regarding a Vice-President or the President, the Senior Harassment Officer shall serve as the Contact Person and will initiate an investigation through an external investigator, notifying the Governance Committee of the Board of Governors.

## SENIOR HARASSMENT OFFICER

The Senior Harassment Officer is the person who has been appointed by the University to guide and manage the complaint and investigation process from beginning to end. Upon receipt of a formal complaint, the Contact Person will advise the Senior Harassment Officer who will follow the process outlined in the Procedures document.

## INVESTIGATION TEAM

An Investigation Team will be appointed to conduct a full, fair and impartial investigation of a formal complaint of harassment. The University expects the full co-operation of the complainant, the respondent, and any witnesses to the alleged incident(s). These individuals will be notified of the investigation and asked to attend the proceedings (noncompliance or refusal to attend will NOT stop the investigation). The Team will make all reasonable efforts to complete the investigation and render its report within the time frames outlined in the Procedures document.

## APPEALS PROCEDURE

An appeals mechanism is also available as part of the Procedures. Appeals are accepted initially on the basis of a concern or disagreement on a point of fact or matter of law. Once a decision has been finalized, appeals regarding discipline will also be accepted. All appeals must be submitted in writing and include all grounds or reasons for the appeal.

## DISCIPLINE

Discipline will be implemented through the Vice-President for the area. Discipline will be guided by the processes established under the Staff, Faculty or Student Handbooks and related materials, and by any predetermined consequences stated therein.

*notes:*

1. The University's administration may take immediate action to stop harassment if deemed necessary. This action is not limited to the process described in the Procedures document. Immediate action is NOT discipline but is simply action that is intended to protect the campus community as a whole or an individual member.
2. Retaliation in any form is specifically prohibited and, if proven, will result in serious and immediate discipline. This may include expulsion or dismissal for cause.
3. Subject to 1 and 2 above, there will be NO initial discipline as a result of complaint information provided to Contact Persons that alleges infractions of the *Community Covenant*.
4. While each harassment complaint will be adjudicated individually, this does not preclude additional, appropriate discipline where there are repeat instances. The governing vice president for the area will determine the need for and implementation of additional discipline consequences.

### CONFIDENTIALITY

Confidentiality shall be maintained to the greatest extent possible within the requirements of completing a reasonable investigation. Only those individuals with an immediate need to know will have knowledge of the incident or investigation. All materials and notes relating to the incident will be kept in a separate, private and confidential file that is the property of the University. A complete description of TWU's Harassment Policy and corresponding Procedures is located at [twu.ca/divisions/hr/employee](http://twu.ca/divisions/hr/employee).

### COMMUNICABLE DISEASE POLICY

The University has adopted the following policies with respect to all communicable diseases including the Human Immuno-Deficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS) and sexually transmitted diseases:

1. The University will endeavour to make available up-to-date educational materials and Public Health Unit bulletins to students, staff and faculty concerning any communicable infection and disease.
2. The University is not responsible for spread or infection on campus caused by reportable or non-reportable infections and diseases (as defined by Health Canada). Nevertheless, staff and faculty in University departments (e.g., Health Services, Community Life and Physical Education/Athletics) where an accident involving blood has a higher possibility of occurrence, will receive specific training and will maintain special guidelines designed to help protect students, staff and faculty from possible infection. Universal precautions (as prescribed by Health Canada) will be followed in the treatment and continue care of any ill or injured students, staff or faculty member.
3. The University will communicate to the local Public Health Office of Health Canada, all reportable communicable infections and diseases as per the following provisions:
  - a. While the health status information of any student, staff or faculty member is held in the strictest confidence, the University is also committed to protect the health and safety of other community members in our close living, working and teaching environment.
  - b. The University, in conjunction with the local Public Health Office, will give students, staff and faculty appropriate information, as needed, on reportable communicable infections or diseases.
  - c. The University will meet all legal requirements of the local Public Health Office for quarantine or isolation of any student, staff or faculty infected with a contagious disease.
4. No student who contracts a contagious infection or disease while enrolled will be asked to leave campus or withdraw because of his/her illness UNLESS he/she poses a danger to campus community members as determined by the local Public Health Office or by the University's Health Services Office.

5. In the event that testing for infection is required either by the Public Health Office or some other government body including Health Canada, it will be carried out only following consultation with a physician by the individual to be tested. If testing is required according to the Public Health Office or Health Canada, the need for such testing will be communicated confidentially to the individual by the University.

6. The University recognizes that those infected with a communicable disease may benefit from specific medical and counselling care. The university encourages anyone affected by these conditions to access services through their health care provider or the medical and counselling staff in the Wellness Centre on campus.

- a. The University recognizes that those who disclose their HIV/AIDS status have legal right to confidentiality. The confidentiality of such information will be maintained by the University's Health Services Office and will not be divulged to any member of the University's community, the Public Health Office or other governmental organizations under the guidelines of the Health Act.
- b. HIV/AIDS has been added as a reportable infection or disease under the Health Act Communicable Disease Regulations of the Health Act. Patients will be given nominal (with name) and non-nominal (coded) HIV testing and reporting options using guidelines and obligations implemented by the BC Ministry of Health Planning.
- c. All fully qualified students have equal access to the University's programs and services. The HIV/AIDS status of a student will not affect eligibility for admission.
- d. Notwithstanding the issue of confidentiality, the University will act appropriately and as necessary to protect the health and safety of all its community members, including those with HIV/AIDS.

7. The risk of being infected with HIV/AIDS through day-to-day casual contact with people anywhere is extremely low. Although there is no known cure for HIV/AIDS, a great deal is known about how the virus is spread. Recognizing that misplaced fear and a lack of understanding may exist regarding HIV/AIDS or sexually transmitted diseases, the University commits to work to prevent and eliminate discrimination or harassment toward any staff, faculty or student community member. Appropriate education will be provided along with the formulation and implementation of related campus policies protecting all community members.

The University's *Community Covenant* statement outlines a framework to guide all students, staff and faculty in making responsible decisions and articulates the community's understanding of the lifestyle to which Jesus Christ calls Christians. Precautions such as educating oneself about "at risk" behaviour and making personally responsible decisions about one's own behaviours will help protect against the risk of many serious communicable infections or diseases.

## RESIDENCE REQUIREMENT

Trinity Western University is committed to providing on campus residence that assists students in personal growth. The University believes that residential living significantly contributes to the development of the total person and his/her persistence in post-secondary studies. To enhance the accomplishment of its mission "to develop godly Christian leaders," the University requires that all full-time (12 or more semester hours) students live on campus for their first two years or until third-year standing of at least 57 semester hours is achieved. Automatic exceptions to this policy will apply to anyone who is: married, or living with parent(s)/legal guardian, or at least 21 years of age, or enrolled in part-time studies (11 semester hours or less).

Appeals for circumstances not mentioned in the previous exceptions may be submitted in writing to the Campus Service Centre in the Reimer Student Centre no later than July 1 for the fall semester and November 1 for the spring semester. Until an appeal is granted by the University Housing Appeals Committee, the Residence Requirement remains in effect.

Students found living outside the University's Residence Requirement will be seen as not fulfilling the requirements of enrolment and may be required to deregister from the University.



## CAMPUS CLOSURE POLICY

[twu.ca/conditions](http://twu.ca/conditions)

In the event of extreme weather conditions or other emergency situations, please consider the website the primary source of information, along with the TWU bulletin line (604.513.2147). The University will communicate information regarding the cancellation of classes to the following radio stations: CKNW (980 AM), CKWX (1130 AM), STAR FM (107.1 FM), PRAISE (106.5 FM) and KARI (550 AM). *Should there be conflicting reports regarding class cancellations, the TWU website and bulletin line are to be considered correct.*

The first announcement regarding status of campus is made at 6 am and covers the period up to 1 pm. The second announcement is made at 10 am that will cover afternoon classes. Students and faculty should assume that all night classes will continue to operate. A third announcement covering evening classes is made at 3 p.m.

## campus contact information

QUESTIONS ABOUT . . .	CONTACT	LOCATION	PHONE
Absences from class	Your professors		
Absences due to illness	Wellness Centre, during illness	Douglas Centre	3624
Academic Advising	Advisor or Advising Office Director	Reimer Student Centre	2017
Academic Probation Appeal	Office of the Registrar	Mattson Centre	2070
Academic Records	Office of the Registrar	Mattson Centre	2070
Academic Skills Assistance	Learning Resource Office	Douglas Centre	3404
Accountability Issues	Director of Community Life	Reimer Student Centre	3447
Add/Drop Courses	Office of the Registrar	Mattson Centre	2070
Address Change	Enrolment Services	Mattson Centre	2070
Advertising			
<i>Mars' Hill</i>		Douglas Centre	2109
<i>TipOff</i>	<a href="mailto:tipoff@twu.ca">tipoff@twu.ca</a>		
Aerobics	Recreation Services	Douglas Centre	3455
Athletics	Athletic Department	Gymnasium	2020
Audio Visual Equipment	Audio Visual Technician	Neufeld Science Centre	2107
Books and Supplies	University Bookstore	Reimer Student Centre	2005
Campus Closures	<a href="http://twu.ca/conditions">twu.ca/conditions</a>		513.2147
Career Planning	Career Development Office	Reimer Student Centre	2017
Change of Major	Office of the Registrar	Mattson Centre	2070
Class Schedules	Office of the Registrar	Mattson Centre	2070
Clubs (recreational)	Recreation Services	Douglas Centre	3455
Collegia Program	Asst Director of Community Life	Douglas Centre	3402
Commuter Programs	Asst Director of Community Life	Douglas Centre	3402
Cooperative Education	Career Development Office	Reimer Student Centre	3406
Counselling	Wellness Centre	Douglas Centre	2100
Counselling Psychology MA	Director of MA Counselling	NW Building	3130
Disabilities	Director of Equity of Access Office	Douglas Centre	3404
Doctor	Wellness Centre	Douglas Centre	2024
Ecosystem Study Area	ESA Manager	Neufeld Science Centre	3162
Employment	Student Success Centre	Reimer Student Centre	2017

Enrolment	Office of the Registrar	Mattson Centre	2070
Financial Aid	Financial Aid	Mattson Centre	2031
Grades	Office of the Registrar	Mattson Centre	2070
Graduation Requirements	Office of the Registrar	Mattson Centre	2070
Guests (overnight)	Housing Office	Reimer Student Centre	2032
Harassment	Director of Human Resources	Reimer Student Centre	3040
Health Services	Wellness Centre	Douglas Centre	3622
Housing	Housing Office	Reimer Student Centre	2032
Housing Appeal	Housing Office	Reimer Student Centre	2032
I.D. Card Replacement	Housing Office	Reimer Student Centre	2032
International Programs	Asst Director of Community Life	Douglas Centre	3420
Intramural Sports	Recreation Services Office	Douglas Centre	3445
Keys – rooms	Housing Office	Reimer Student Centre	2032
Leadership Opportunities	<a href="http://twu.ca/studentleadership">twu.ca/studentleadership</a>		3406
Library Hours and Info	<a href="http://twu.ca/library">twu.ca/library</a>		2023
Locked Out?	Security	Welcome Centre	2099
Lockers	Housing Office	Reimer Student Centre	2032
Lost and Found	Housing Office	Reimer Student Centre	2032
Mail	Mail Centre	Douglas Centre	2140
Meals/Food	Housing Office	Reimer Student Centre	2032
Medical Insurance	Wellness Centre	Douglas Centre	2100
Nurse	Wellness Centre	Douglas Centre	3611
Open Gym hours, evenings	Gym Supervision Office	Gymnasium	2115
Orientation	Associate Dean	Reimer Student Centre	3422
Parking Services	Security	Welcome Centre	3518
Payments and Fees	Office of the Registrar	Mattson Centre	2070
Publications:			
<i>Mars' Hill</i>		Douglas Centre	3356
<i>Pillar</i>		Douglas Centre	3340
<i>TipOff</i>	<a href="mailto:tipoff@twu.ca">tipoff@twu.ca</a>		
Re-Enrolment	Admissions	Mattson Centre	2019
Recreation Equipment	Recreation Services	Douglas Centre	3455
Refunds	Office of the Registrar	Mattson Centre	2070
Security/Safety Issues	Security Officer	Welcome Centre	2099
Spiritual Concerns	Director of Student Ministries	Reimer Student Centre	3823
Storage	Housing Office	Reimer Student Centre	2032
Student Government	twuSA	Douglas Centre	3419
Study Skills Instruction	Learning Resource Centre	Douglas Centre	3404
Summer Employment	Career Development Office	Reimer Student Centre	3606
Telephones	Telecom Services	Mattson Centre	2111
Theft	Security	Welcome Centre	2099
Transcripts	Office of the Registrar	Mattson Centre	2070
twu Mission	President's Office	Reimer Student Centre	2021
Vacuum Use	Building Service Worker	Your residence area	
Weight Room Hours	Gym Supervision Office	Gymnasium	2115
Withdrawals	Student Life Office	Reimer Student Centre	3431

## campus hours of operation

SERVICE	DAY	HOURS OF OPERATION
Admissions	Mon - Fri	8:30 a.m. - 4:30 p.m.
Bookstore	Mon - Fri	9:30 a.m. - 5:00 p.m.
Cafeteria	Mon - Fri	7:00 a.m. - 8:00 p.m.
	Sat - Sun	8:00 a.m. - 7:00 p.m.
Campus Service Centre	Mon - Fri	8:30 a.m. - 4:30 p.m.
Collegium Facilities (commuter)	Mon - Thur	7:00 a.m. - 7:00 p.m.
	Fri	7:00 a.m. - 5:00 p.m.
Counselling Services	Mon - Fri	9:00 a.m. - 4:30 p.m.
Doctor's Office	Mon - Fri	9:00 a.m. - 12:00 p.m.
	Sat - Sun	1:00 p.m. - 4:30 p.m.
Finance	Mon - Fri	8:00 a.m. - 4:30 p.m.
Gymnasium and Fitness Centre	See posted days/hours	
Library	Mon - Thur	7:45 a.m. - 11:00 p.m.
	Fri	7:45 a.m. - 6:00 p.m.
	Sat	10:00 a.m. - 6:00 p.m.
	Sun	1:30 p.m. - 5:00 p.m.
Lounges (Main floor only)	Daily	24 hours
Fraser, Douglas and Northwest Halls		
Nurse's Office	Mon - Fri	9:00 a.m. - 4:30 p.m.
Office of the Registrar	Mon - Tues	9:00 a.m. - 3:30 p.m.
	Wed - Thurs	9:30 a.m. - 3:30 p.m.
	Fri	9:00 a.m. - 3:30 p.m.
Student Success Centre	Mon - Fri	8:30 a.m. - 12:00 p.m.
Advising Office	Mon - Fri	1:00 p.m. - 4:30 p.m.
Student Life Office	Mon - Fri	8:30 a.m. - 4:30 p.m.

## emergency & professional assistance numbers

Please assist by sending someone to meet emergency vehicles at University entrance.

FIRE, AMBULANCE, POLICE	911
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### ON-CAMPUS EMERGENCY NUMBERS

SERVICE	DAY	HOURS OF OPERATION
First Aid Attendant	Mon - Fri, 8:30 a.m. - 4:30 p.m.	604.513.2099
Clinic Nurse		ext. 3611
rwu Medical Clinic		604.513.2024

Community Life Emergency On-Call	Mon - Fri, 4:30 p.m. - 8:30 a.m. Sat - Sun, 24 hours	604.307.4857
Security (Fire alarms, lock-outs, and Emergency cell)		604.513.2099
Maintenance Emergency	24 Hours	ext. 3515

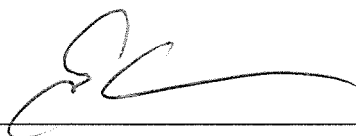
#### OFF-CAMPUS NON-EMERGENCY NUMBERS

SERVICE	ADDRESS / HOURS	PHONE
Langley Memorial Hospital	22051 Fraser Hwy	604.534.4121
Poison Control Centre		604.682.5050
		604.682.2344
Crisis Centre (for persons in emotional crisis)		604.951.8855
Sexual Assault Centre (for victims of sexual assault)		604.255.6228
Rape Crisis Centre		604.255.6344

#### OFF CAMPUS MEDICAL CLINICS

Glover Medical Clinic		604.530.3233
	101-5796 Glover Rd.	
	Mon - Thurs, 8 a.m. - 8 p.m.	
	Friday 8 a.m. - 5 p.m.	
	Weekends/holidays, 9 a.m. - 5 p.m.	
Grove Medical Clinic	401-21183 88 Ave.	604.882.1250
	Mon - Fri, 8 a.m. - 9 p.m.	
	Weekends/holidays, 9 a.m. - 5 p.m.	
Redwood Medical Clinic	#5, 8948 202 St., Langley	604.888.4472
	Mon - Tues, 9 a.m. - 5 p.m.	
	Wed. - Fri. 9 a.m. - 3 p.m.	
	Saturday 9 a.m. - 1 p.m.	
	Sundays/holidays - Closed	
Valley Centre Medical Clinic	Located inside the Real Canadian Superstore on Willowbrook Dr.	604.534.9284
	Mon - Fri, 9 a.m. - 8 p.m.	
	Sat, 9 a.m. - 6 p.m.	
	Sun, 10 a.m. - 6 p.m.	
Travel, Health and Vaccination Clinic	105-9292 200 St.	604.888.8716
	Mon - Fri, 9:30 a.m. - 5 p.m.	

THIS IS EXHIBIT "B" REFERRED TO IN THE  
AFFIDAVIT OF CHERYL MCKINNON  
SWORN BEFORE ME AT TORONTO  
THIS 9th DAY OF APRIL, 2014

A handwritten signature in black ink, consisting of a stylized 'J' followed by a horizontal line and a flourish.

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A COMMISSIONER FOR TAKING AFFIDAVITS IN ONTARIO



ABOUT TWU

ACADEMICS

COMMUNITY

ADMISSIONS

FINANCES

APPLY

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Sign in to pre-populate your app or retrieve one you've already started.  
A new account will be created for you when you save your application.

**SAVE YOUR APPLICATION**

Your application automatically saves every 5 minutes.

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**COMMUNITY COVENANT AGREEMENT**

In August 2009, Trinity Western University adopted a new Community Covenant Agreement that applies to all students, faculty, staff and affiliates, replacing TWU's longstanding Responsibilities of Membership Agreement. Students are annually required to read, understand and pledge to the terms of the Community Covenant Agreement prior to registering for classes. If you have questions related to the Community Covenant Agreement or this requirement you may direct them to [CommunityInCovenant@twu.ca](mailto:CommunityInCovenant@twu.ca).

View the entire Community Covenant Agreement [here](#).

All students are required to read and understand the Community Covenant Agreement and agree to the terms of the document before being permitted to register for classes. We would encourage you to read this document now and sign that you agree but you may decide to do this at a later date.

☒ I agree☐ Not yet, I still have questions**LEGAL CONFIRMATION**

By selecting 'I Agree' below, I agree and understand that upon my acceptance as a student at Trinity Western University, the University shall have the entitlement to contact my parent/guardian/spouse/specified emergency contact at any time while I remain a student in cases of emergency or perceived necessity, notwithstanding the provisions of the Privacy Act of British Columbia and any related legislation. TWU reserves the right to select students on the basis of academic performance and personal qualifications. TWU does not discriminate on the basis of race, sex or national or ethnic origin in its education programs or activities.

Notification of your admission status by the Admissions Office is usually given within 15 business days of receiving all application materials including this application, transcripts, and academic histories. Items submitted to TWU Admissions become property of Trinity Western University and will not be returned under any circumstances.

By selecting 'I Agree' below, I do hereby understand and agree to the above conditions and certify that the information given in this application is complete and true in every respect.

☐ I agree**<< PREVIOUS TAB****SUBMIT YOUR APPLICATION**

VISIT THE TWU CAMPUS

REQUEST MORE INFO

CHOOSE YOUR  
PROGRAM

BECOME A STUDENT



7600 Glover Road Langley, BC V2Y 1Y1 Canada  
US Mail: PO Box 1409 Bialne, WA 98231-1409 USA  
Tel: +1.604.886.7511

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WEBSITE  
FEEDBACK

THIS IS EXHIBIT "C" REFERRED TO IN THE  
AFFIDAVIT OF CHERYL MCKINNON  
SWORN BEFORE ME AT TORONTO  
THIS 9th DAY OF APRIL, 2014

A handwritten signature in black ink, consisting of a stylized 'J' or 'G' followed by a long horizontal stroke, positioned above a solid horizontal line.

A COMMISSIONER FOR TAKING AFFIDAVITS IN ONTARIO



December 17, 2013

Our Ref. 95189

XRef: 91307

File: 60100-30/TWU/1213TWU0018

Mr. Robert G. Kuhn, President (Interim)  
Trinity Western University  
7600 Glover Rd  
Langley BC V2Y 1Y1

Dear Mr. Kuhn:

The proposal submitted by Trinity Western University (TWU) for consent to offer and grant a Juris Doctor degree has now completed all stages in the degree quality assessment process established under the *Degree Authorization Act* (DAA).

The Degree Quality Assessment Board (the Board) reviewed the proposal at its meeting on June 10, 2013, and found that it met the degree program quality assessment criteria for private and out-of-province public institutions. The Board recommended several *Special Terms and Conditions of Consent* with which I agree.

As a result, I am pleased to advise that a five-year term of consent is given to TWU to provide, advertise and grant a Juris Doctor degree under section 3(1) of the DAA with the attached *Special Terms and Conditions of Consent* and *Standard Terms and Conditions of Consent* (attached for signature) which applies to all institutions receiving consent.

Please note that although the Ministry supports TWU's efforts to increase education in this area, the Province is unable to commit financial support to TWU for this project.

Sincerely,

Anurik Virk  
Minister

Attachments

pc: Dr. Elsie Froment, Dean of Research  
Trinity Western University

Degree Quality Assessment Board



## TERMS AND CONDITIONS OF MINISTERIAL CONSENT

---

**Name of Institution:** Trinity Western University

**Consent for:** Juris Doctor

The following standard terms and conditions are attached to the consent from the Minister of Advanced Education under section 4(3) of the *Degree Authorization Act*.

- 1) **Consent period:** The consent period will normally be five years.
- 2) **Scope of consent:** Consent will be specific to the activity, program (major and minor, if specified) and site described in the submitted application.

The consent holder must inform the minister before implementation of any material change in circumstance (i.e., ownership change, location change, material change in learning outcomes, the minimum qualifications of faculty), or of substantive changes (i.e., termination or suspension of programs that have consent), which may change the scope of consent.

- 3) **Consent not transferable:** A consent is not transferable.
- 4) **Notice for students and public:** The following must appear in the consent holder's current calendar, and in the student's enrolment contract:

*This program is offered under the written consent of the Minister of Advanced Education effective (consent date) having undergone a quality assessment process and been found to meet the criteria established by the minister. Nevertheless, prospective students are responsible for satisfying themselves that the program and the degree will be appropriate to their needs (for example, acceptable to potential employers, professional licensing bodies, or other educational institutions).*

- 5) **Advertising:** A consent holder must not use any term or phrase in advertising that refers to approval of the minister or the Government of British Columbia other than that the program is offered under the written consent of the minister.
- 6) **Program Implementation:** The consent holder must enroll students in the degree program within three years from the date of consent. If the degree program is not offered within the three-year time period, consent is automatically revoked.
- 7) **Reporting:** A consent holder must provide the following information to the minister when requested:
  - if accredited in another jurisdiction, proof of continuing legal and accreditation status, and any variation in status;
  - A report on the current academic standards for each degree program for which consent has been granted, including but not limited to:
    - number and percentage of teaching staff/faculty by level of education, professional designations and experience;

## TERMS AND CONDITIONS OF MINISTERIAL CONSENT

- number of full time equivalent (FTE) degree students per full time equivalent (FTE) teaching staff/faculty;
  - the institution's annual report (including audited financial statement);
  - the institution's most recent calendar;
  - tuition and related fees for the degree programs for which consent has been granted;
  - student full time equivalent (FTE) enrolment in programs by year, for which consent has been granted;
  - number of degrees granted in the previous year for programs for which consent has been granted;
  - student attrition and retention rates;
  - job placement rates (both direct and indirect);
  - employer satisfaction;
  - student satisfaction;
  - number and nature of transfer agreements entered into the previous year regarding programs for which consent has been granted; and
  - other performance measures requested by the minister.
- 8) **Entitlement of consent holder to government funding:** Ministerial consent does not entitle the consent holder to funding from the government of British Columbia.
- 9) **Revocation and suspension of consent:**  
A consent holder's failure to comply with any terms and conditions or any legislative obligation may lead the minister to amend, suspend or revoke consent. The Degree Quality Assessment Board may also recommend that the minister amend, suspend or revoke consent as a result of a comprehensive review which determined that the quality of the degree program had not been maintained.
- 10) **Financial security:** The consent holder must meet conditions established regarding the security of tuition fees. These are outlined in the Degree Authorization Regulations established pursuant to Section 9(1) of the *Degree Authorization Act*.
- 11) **Access to and security of student transcripts:** The consent holder must meet the requirements regarding the access to and security of student transcripts established under Section 4(4) of the *Degree Authorization Act*.
- 12) **Student contracts:** A consent holder must have an enrolment contract for students enrolling in degree programs. The student's obligation under the contract must not exceed a period of 12 consecutive months. The contract must include the following:
- the title of the program and name of degree;
  - the start date and end date;
  - policies on student withdrawal and refund of fees and charges; and
  - the statement required under term and condition #4.

## TERMS AND CONDITIONS OF MINISTERIAL CONSENT

- 13) **Awareness of policies affecting students:** A consent holder must have a calendar or other comparable publication available to students and the public setting forth the following:
- admissions requirements and procedures;
  - programs and courses with indication of when they are offered;
  - rules and regulations for student, faculty and employee conduct;
  - degree completion requirements;
  - method of course delivery;
  - tuition and other fees;
  - transfer arrangements currently in place. If the consent holder has no credit transfer arrangements in place, the consent holder must indicate that no such arrangements exist.
- 14) **Misrepresentation or malfeasance:** The minister may deny, suspend, or revoke consent, where the following has taken place, or was taking place, at any time during or after the consent process until such time as the minister is satisfied that the situation has been remedied:
- information provided for reviews was not truthful and complete; and/or,
  - misrepresentations, falsehood, fraud, abuse, or charges pending against the institution or its staff members for violations of law had occurred, or was occurring.

I acknowledge that I understand the terms and conditions attached to consent, that all information provided in the application is true, and that I agree to comply with all representations made during the course of the application, and with the terms and conditions of consent.

W. Robert Wood  
Name of authorized representative

Provost  
Position at the Institution

ls  
Signature

Feb 19/14  
Date

# SPECIAL TERMS AND CONDITIONS OF MINISTERIAL CONSENT

Name of Institution: Trinity Western University

Consent for: Juris Doctor

The following special terms and conditions are attached to the consent from the Minister of Advanced Education under section 4(3) of the *Degree Authorization Act*.

- 1) **Consent period:** The consent period will be five years.
- 2) **Prior Commitments:** The institution must implement the agreed to conditions made in its response of May 17, 2013 to the expert panel's report.
- 3) **Faculty:** The institution must hire qualified faculty with the necessary qualifications for the degree being offered.
- 4) **Approval:** The institution will be able to admit students into the program based on approval received from the Federation of Law Societies of Canada in December 2013.
- 5) **Reporting:** The institution must provide a report to the Board on the status of faculty recruitment and regulatory body approval prior to launching the program.
- 6) **Misrepresentation or malfeasance:** The minister may deny, suspend, or revoke consent, where the following has taken place, or was taking place, at any time during or after the consent process until such time as the minister is satisfied that the situation has been remedied:
  - information provided for reviews was not truthful and complete; and/or,
  - misrepresentations, falsehood, fraud, abuse, or charges pending against the institution or its staff members for violations of law had occurred, or was occurring.

I acknowledge that I understand the terms and conditions attached to consent, that all information provided in the application is true, and that I agree to comply with all representations made during the course of the application, and with the terms and conditions of consent.

W. Robert Wood

Name of authorized representative

Provost

Position at the Institution

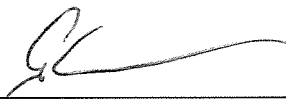
[Signature]

Signature

Feb 19 / 14

Date

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AFFIDAVIT OF CHERYL MCKINNON  
SWORN BEFORE ME AT TORONTO  
THIS 9th DAY OF APRIL, 2014

A handwritten signature in black ink, appearing to be 'JL', is written over a horizontal line.

A COMMISSIONER FOR TAKING AFFIDAVITS IN ONTARIO



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## STATEMENT

For Immediate Release  
2013AVED0047-001903  
Dec. 18, 2013

Ministry of Advanced Education

### **Statement on Trinity Western University's proposed law degree**

VICTORIA – Advanced Education Minister Amrik Virk issued the following statement after he granted consent for the proposed new law school program at Trinity Western University.

“Trinity Western University is a faith-based, private university that does not receive operating or capital funding from government.

“I have now had an opportunity to consider the Degree Quality Assessment Board’s recommendation and findings, as well as the Federation of Law Societies of Canada reports.

“The Degree Quality Assessment Board reviewed Trinity Western University’s proposed law degree and found that it met the degree program quality assessment criteria for private and out-of-province public institutions.

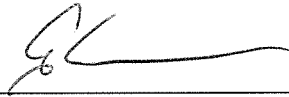
“Further, the review by the Federation of Law Societies confirmed that graduates of the proposed law program could meet the national standards to practise law.

“As Advanced Education Minister, I have granted consent for Trinity Western University’s application for its proposed new law school program.”

**Media Contact:** Catherine Loiacono  
Communications Manager  
Ministry of Advanced Education  
250 952-6400

Connect with the Province of B.C. at: [www.gov.bc.ca/connect](http://www.gov.bc.ca/connect)

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---

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**Cheryl McKinnon**

---

**From:** Sutherland, Scott GCPE:EX <Scott.Sutherland@gov.bc.ca>  
**Sent:** April-04-14 5:34 PM  
**To:** Cheryl McKinnon  
**Subject:** RE: Re: December 18, 2013 Press Conference re: Trinity Western  
**Attachments:** Virk confcall.mp3

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Hi Cheryl,  
 Yes, I am able to forward to you the audio file of the news/tele-conference (done by telephone with reporters) from Dec . 18.  
 Please find attached.

Your,  
 Scott

**Scott Sutherland** | Communications Manager  
 Government Communications & Public Engagement  
 B.C. Ministry of Advanced Education

Desk: 250.952-6400 | Mobile: 250.213-1042 | email: [scott.sutherland@gov.bc.ca](mailto:scott.sutherland@gov.bc.ca)

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---

**From:** Cheryl McKinnon [mailto:cmckinnon@rubyskiller.com]  
**Sent:** April-04-14 12:55 PM  
**To:** Sutherland, Scott GCPE:EX  
**Subject:** FW: Re: December 18, 2013 Press Conference re: Trinity Western

Good afternoon Mr. Sutherland,

I just wanted to follow up on our telephone conversation on Wednesday and my email below, were you able to assist in this matter?



Yours truly,

**Cheryl McKinnon**  
Law Clerk

**RUBY  
SHILLER  
CHAN  
HASAN  
BARRISTERS**

11 Prince Arthur Avenue  
Toronto Ontario M5R 1B2  
T: 416 964 9664 • F: 416 964 8305 • Web: [www.rubyshiller.com](http://www.rubyshiller.com)  
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**From:** Cheryl McKinnon  
**Sent:** April-02-14 7:30 PM  
**To:** 'scott.sutherland@gov.bc.ca'  
**Subject:** Re: December 18, 2013 Press Conference re: Trinity Western

Mr. Sutherland,

Thank you for taking the time to speak with me this afternoon. Per our conversation wherein I was seeking information about the press conference held by Minister Virk on December 18, 2013 regarding Trinity Western University, you asked if I wanted a copy of the transcript or audio of the press conference. I am writing to request a copy of both the audio and transcript of this press conference if you are able to provide these to me.

I look forward to hearing from you.

Yours truly,

**Cheryl McKinnon**  
Law Clerk

**RUBY  
SHILLER  
CHAN  
HASAN  
BARRISTERS**

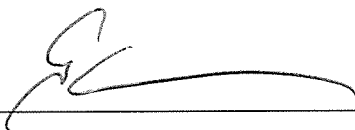
11 Prince Arthur Avenue  
Toronto Ontario M5R 1B2  
T: 416 964 9664 • F: 416 964 8305 • Web: [www.rubyshiller.com](http://www.rubyshiller.com)  
E: [cmckinnon@rubyshiller.com](mailto:cmckinnon@rubyshiller.com)

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have received this communication in error, please notify us immediately by telephoning (416) 964-9664 or by email at [cmckinnon@rubyshiller.com](mailto:cmckinnon@rubyshiller.com) Thank you for your cooperation."



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A COMMISSIONER FOR TAKING AFFIDAVITS IN ONTARIO

TWU PRESS CONFERENCE – DECEMBER 18, 2013

**Minister Virk:** Ladies and Gentlemen. First of all good afternoon to all of you, I'm going to read out a number of facts then I will certainly open up the floor for some questions. As you know there has been significant interest over the past few days regarding the proposed new law program at Trinity Western University. That's what I would like to discuss with you today. I've had an opportunity to consider the Degree Quality Assessment Board recommendation and findings as well as the Federation of Law Societies of Canada's report. As you know, I have given consent for a new law program at Trinity Western University. Trinity Western University is a faith-based, private university, which does not receive operating or capital funding from government. In terms of a timeline, in April 2012, Trinity Western University first requested approval for its law school program. Subsequently, the law degree program underwent a two stage external review. The first was a review by the Degree Quality Assessment Board. My responsibility was to approve or not approve this degree according to the established criteria that was reviewed by the Degree Quality Assessment Board. The Board found that the proposed new law program at Trinity Western University meets the degree program quality assessment criteria for private and out-of-province public institutions, and the Board provided the recommendation to approve. The recommendation from the Degree Quality Assessment Board was based upon the educational quality of the program within the confines of the *Degree Authorization Act*. The Federation of Law Societies of Canada has also granted preliminary approval. Furthermore, the review of the Federation of Law Societies confirms that graduates of the proposed law program could meet the national standards to practice law in Canada. I am aware of the opposition by some individuals and organizations to the law program at Trinity Western University, however, they do not fall within the scope of the quality of the law degree or academic programming so is outside the purview of upper government. The Ministry of Advanced Education and the Degree Quality Assessment Board based their view solely on the assessment of the quality of the program. Again, and I must stress, the review was within the confines of the *Degree Authorization Act*. Some of you may wish to ask about the covenant at Trinity Western University. It applies to all staff and students at TWU, not just to the proposed law degree. I understand there's talk about a legal challenge. Many of the potential legal issues were identified in the Federation of Law Societies special report. If a legal challenge is advanced, this would be a matter for the Courts to decide. I will take some questions from reporters now. Madam Moderator, if you would cue the questions please?

**Madam Moderator:** 01 on your handset now. If you wish to withdraw your question, press the # sign. We have one question in the cue. The questioner is Tracy Sherlock from the Vancouver Sun. Please go ahead.

**Tracy Sherlock:** Hello Minister Virk.

**Minister Virk:** Hello Tracy.

**Tracy Sherlock:** I just wanted to know, is this the final hurdle that they have to pass to get the law school go ahead?

**Minister Virk:** Yes it is.

**Tracy Sherlock:** That's it. So now it will be a go so long as they carry on with it?

**Minister Virk:** That's correct. TWU can now [begin] implementing its programs and its plans as of now.

**Tracy Sherlock:** Ok. Do you have any idea of when they plan to open the program?

**Minister Virk:** Well, I can only imagine that they're going to be ensuring all the staff and otherwise are in place. I believe they are looking for a September 2015 or 2016 start date.

**Tracy Sherlock:** 2016. Ok.

**Minister Virk:** Right.

**Tracy Sherlock:** Thank you very much.

**Madam Moderator:** Thank you. Currently there are no more questions in the cue. Again, to ask a question, press 01 on your handset. We have two questioners in the cue. The first questioner is Andrea Woo from Globe and Mail. Please go ahead.

**Andrea Woo:** Hi Minister.

**Minister Virk:** Hello. Good afternoon.

**Andrea Woo:** So as you know there are some very vocal critics of this. Some are saying that it's simply not possible for a law school that prohibits sexual intimacy between same-sex couples to adequately educate students in the area of equality rights. What is your response to that?

**Minister Virk:** Trinity Western is indeed a faith-based and it's a private university in BC that receives no operating or capital funding and my decision is based solely on the Degree Quality Assessment Board and their view and also the recommendation from the Federation of Law Societies of Canada.

**Andrea Woo:** Ok. Thanks.

**Madam Moderator:** Thank you.

**Madam Moderator:** Our next question is from Camille Bains, Canadian Press. Please go ahead.

**Camille Bains:** Hello. I just joined in late and I missed what you said about the legal challenges. What kind of legal challenges have been identified?

**Minister Virk:** I'm just aware that there are individuals or groups that may wish to challenge this decision in the Courts. In terms of specifics, I don't have that information. All I can say is that a legal challenge is indeed advanced it is certainly a matter of the competent court to decide that.

**Camille Bains:** Ok. Thank you.

**Madam Moderator:** Thank you. Our next question is from Luke Bronkie, CBC News. Please go ahead.

**Luke Bronkie:** Hi Minister. I just...a little bit more on this controversy I suppose. You keep saying that this university will not receive any public funding, fine but, we've heard from critics wondering whether or not it is at all in the public interest for the profession of law to even approve a law school with policies that effectively discriminate against gays and lesbians. Was that taken into consideration at all?

**Minister Virk:** I am certainly aware there's lots of individuals and organizations or some individuals and organizations that have issue with this law degree. Since they don't relate to the academic quality of the law school program, they certainly fall within outside the purview of my Ministry and if people want to challenge a covenant then going to the Courts is the most appropriate location for that. It's not within the mandate of my Ministry.

**Luke Bronkie:** Would you not think that it could affect the quality of the education received by say gays or lesbians going to this school, having to sign a covenant that effectively made them promise not to engage in same-sex activities? It's...you know, for me, it would be tough for them not to feel like second-class citizens.

**Minister Virk:** Well, you know, the purview of the Degree Quality Assessment Board was to look at the quality of the degree itself and the kind of things that they look at is you sufficient instructors, the quality of the program, the academic rigour and those are more a factor of what they look at are certainly available online DQAB's process. But those factors in terms of academic rigour, quality of program and sufficient instructors is what they look at and they've determined after a very close and rigorous examination that this degree meets those standards.

**Luke Bronkie:** Ok. So you did not do your own examination really, you just looked at the two that were done previously?

**Minister Virk:** Well, you know, the examination is done by competent expert review boards and that's why we have competent expert review boards, one being the Degree Quality Assessment Board and the other being of course, the Federation of Law Societies of Canada, both very competent expert review boards that provide advice to my Ministry.

**Luke Bronkie:** Ok. Thank you.

**Madam Moderator:** Thank you. And our last question in the cue is from Matt Kieltyka from the Metro Vancouver. Please go ahead.

**Matt Kieltyka:** Hi Minister, just a couple questions for you. Do you know currently how many law school seats are available in British Columbia?

**Minster Virk:** You know, I do not, but we can certainly get that information to you.

**Matt Kieltyka:** Yeah. That would be great. In the event of the constitutional challenge, do you know whether since all of the debates kind of fall outside of your scope and the evaluation of the degrees merits itself, would the province be involved in any sort of legal action? I mean, would you be having to defend your decision in Court?

**Minister Virk:** Well you know what, I don't want to speculate or be a prophet in that. This is a matter for Trinity Western University to look at and certainly falls outside the mandate of my Ministry.

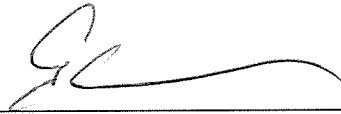
**Matt Kieltyka:** Ok. Thank you.

**Madam Moderator:** Thank you. That was the last question in the cue, Minister.

**Minister Virk:** Ok. Thank you very much. Thanks to all the reporters for calling in and have a good afternoon.

**Madam Moderator:** Ladies and gentlemen, this concludes the Ministry of Advanced Education conference call. For [END OF RECORDING]

THIS IS EXHIBIT "G" REFERRED TO IN THE  
AFFIDAVIT OF CHERYL MCKINNON  
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THIS 9th DAY OF APRIL, 2014



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A COMMISSIONER FOR TAKING AFFIDAVITS IN ONTARIO





## **Overturning provincial approval of Trinity Western's law school would be discriminatory, says university president in response to proposed lawsuit**



TWU President Bob Kuhn says that the school's ban on same-sex intimacy is protected under the Charter's freedom of religion

BY DANIEL FISH

ON WEDNESDAY MARCH 19TH, 2014

A proposed lawsuit that seeks to overturn the approval of the law school at Trinity Western University, which forbids same-sex intimacy, infringes upon the school's freedom of religion, says Bob Kuhn, the university's president.

Trinity Western requires all of its students to sign a community covenant that asks students to abstain from "sexual intimacy that violates the sacredness of marriage between a man and a woman."

Still, its proposed law school earned provincial approval in December (the Law Society of B.C. has not yet made a decision on whether TWU law graduates will be accredited).

Toronto lawyer Angela Chaisson is planning to sue the British Columbia government (<http://lawandstyle.ca/badass-lawyers-meet-the-lawyer-gearing-up-to-take-on-trinity-western/>) for that approval because, as she explains, when the government "accredits law schools, it has an obligation to take the *Charter* into account."

Kuhn agrees that the B.C government, unlike a private university, does have to factor the *Charter* into its decisions, but he argues the *Charter* is on his side.

"The definition of marriage in a Christian context is pretty clear, historically, for thousands of years," he says. "To suggest that the community cannot hold that view — it seems to me that that's the height of discrimination."

He also says that if Trinity Western, in order to have a law school, has to amend its community covenant, this would create an "impoverished view of freedom of religion."

"Nobody can be stopped from believing what they want," he says, "but it's only when you act on that belief that it has any meaning."

Moreover, Kuhn says students in same-sex relationships would not want to attend Trinity Western's law school in the first place.

"You've got to look at it realistically and say, 'How many gay couples are going to want to come to the Trinity Western law school and become part of our community?'"

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*Precedent* profiled Angela Chaisson as the first in our series on Badass Lawyers. Following the publication of that story on lawandstyle.ca (<http://lawandstyle.ca/badass-lawyers-meet-the-lawyer-gearing-up-to-take-on-trinity-western/>), Bob Kuhn contacted *Precedent* to offer a response.

This is the 1<sup>st</sup> Affidavit  
of William Brent Cotter in this case  
and was made on May 26, 2014

No. S-142908  
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH  
COLUMBIA

BETWEEN

TREVOR JAMES LOKE

PETITIONER

AND

MINISTER OF ADVANCED  
EDUCATION OF BRITISH  
COLUMBIA

RESPONDENT

**AFFIDAVIT #1**

**WILLIAM BRENT COTTER**

Janes Freedman Kyle Law Corporation  
340 – 1122 Mainland Street  
Vancouver, BC V6B 5L1  
Karey M. Brooks, File No.: 1202-001

This is Exhibit " L " referred to in the  
affidavit of Tracy Tso  
sworn before me at Vancouver  
this 16 day of January, 2015.

  
A Commissioner for taking Affidavits  
for British Columbia



This is the 1<sup>st</sup> Affidavit  
of William Brent Cotter in this case  
and was made on May 26, 2014

No. S-142908  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**BETWEEN:**

**TREVOR JAMES LOKE**

**PETITIONER**

**AND**

**MINISTER OF ADVANCED EDUCATION OF BRITISH COLUMBIA**

**RESPONDENT**

**AFFIDAVIT #1 OF WILLIAM BRENT COTTER**

I, WILLIAM BRENT COTTER, Law Professor, of the City of Saskatoon, in the Province of Saskatchewan, MAKE OATH AND SAY AS FOLLOWS:

1. I am a professor at the College of Law at the University of Saskatchewan in Saskatoon, Saskatchewan and have worked as a professor and Dean [2004 to 2010] at the College of Law since 2004. I was a professor at Dalhousie Law School from 1977 to 1991, a professor and Chair, Legal Ethics and Legal Education at the Faculty of Law, University of Alberta in 1991-92 and a Deputy Minister in the Government of Saskatchewan from 1992 to 2004.

2. I have been involved in law school admissions, with some interruptions, since 1979 when I began chairing the Admissions Committee at Dalhousie Law School, a position in which I continued for most of the years up to 1991. During a number of those years I served as President of Canadian Law Admissions Statistics Services and Innovations (CLASSI), an organization with membership composed of admissions representatives of Canada's common law schools., and from time to time as CLASSI's representative on the Board of Trustees of the Law School Admissions Council (LSAC), the North American organization responsible for the Law School Admissions Test (LSAT) and related support services to North American law schools.
3. "Canada's Common Law Schools" include Canadian law schools, and exclude civil law schools at the University of Ottawa and Quebec's civil law schools, but include McGill Law School. One common law school, Thompson Rivers University (TRU), does not report data to CLASSI, so that school's admissions information is not available and is estimated where indicated below.
4. During the period when I was the Chair of Admissions at Dalhousie Law School and from time to time as President of CLASSI, Professor Brian Mazer of the University of Windsor Faculty of Law and I developed a survey instrument to gather information about law school admissions at each of Canada's Common Law Schools. This survey instrument has been used, with minor modifications, to gather admissions information since 1984. Survey responses were incomplete for 1984, but for every year since that time, highly reliable admissions information has been gathered yearly by CLASSI.
5. From 1985 to 1991 Professor Mazer and I conducted an analysis of the CLASSI information gathered in these surveys, in most years provided Reports to CLASSI and in some years provided reports to the Council of Canadian Law Deans (CCLD). Professor Mazer continued this practice until his retirement from law teaching in 2011. I undertook this work beginning in the summer of 2013. The information and analysis referred to in this affidavit is taken from CLASSI information and from the Report to CCLD to be posted on the CCLD website and attached to this affidavit as **Exhibit "A"**. The analysis of this information was undertaken by me using the results of CLASSI surveys gathered

by CLASSI officials and shared with me in the Spring of 2014, with some reference to demographic information available on the Statistics Canada website.

6. As can be seen from Chart 1 of my Report in Exhibit "A", there has been significant demand for places in the first year classes at Canada's Common Law Schools for as long as CLASSI has collected admissions information. Admissions applications peaked in 1992 with a ratio of approximately 13 applications per law school place. Applications for law school places declined through the 1990s to a low of approximately 7 applications per law school place in 2001, but have returned to near historic high levels recorded in 2011, when there were approximately 12 applications for each law school place. There has been a decline in applications of approximately 11% from 2011 to 2014, but the ratio of applications to first year places remains high at just under 11:1.
7. Application numbers do not accurately represent the number of individual applicants, since most applicants apply to more than one of Canada's Common Law Schools, and the law schools do not seek to identify 'multiple applications'. A good proxy for the true number of individual applicants to Canada's Common Law Schools is the number of LSAT test takers in Canada in any one application year, discounted slightly for the test takers who elect not to apply to law school. According to LSAC, there were 11,933 such test takers in 2011; 11,359 in 2012; and 10,923 in 2013. This is consistent with anecdotal data suggesting that applicants submit approximately three applications per person in any one year. A fair estimate of the number of individual applicants to Canada's Common Law Schools in 2013 would be approximately 9,000, suggesting a ratio of about 3.2 applicants for each place in first year law at the Common Law Schools.
8. The number of first year places in Canada's Common Law Schools was relatively constant over the period of 1985 to 2000, with an increase of less than 0.5% per year. Since 2000, first year places have increased at a rate of approximately 1.6% per year. In 2013, excluding TRU, 2,782 students commenced first year law at Canada's Common Law Schools. According to TRU's website (<http://www.tru.ca/law/prospective-students/admissions.html>), that law school's first year class is 100 students, suggesting that the total number of entering students at all common law schools in 2013 was 2,882.

The overall increase in first year places at common law schools since 2000 closely tracks the increase in the Canadian population (excluding Quebec).

9. In British Columbia, application numbers over the period 1985 to 2014 exhibit a similar pattern, rising to a record high in 1992, declining through the 1990s, rising steadily through the period 2001 to 2011 and declining modestly from 2011 to 2014. While CLASSI information does not include application information from TRU, even modest application numbers suggest that the number of applications to British Columbia law schools has been steady to increasing since 2011, TRU's first entering class in law.
10. By comparison, the number of first year places in British Columbia's law schools over the period 1985 to 2013 exhibits a slightly different pattern. From 1985 to 2000 the number of first year places at British Columbia law schools declined from 340 to 301. From 2001 to 2013, excluding TRU, the number of first year places declined further to 286. Both trends are inconsistent with the trend in common law Canada where first year classes increased by approximately 0.5% per year in the first period (1985 to 2000) and by approximately 1.6% per year in the second period (2000 to 2013). Taking into account approximations of the entering classes at TRU in 2013 (100 students), the number of students entering British Columbia law schools in 2013 was 386, an increase of 44 over the period 1985 to 2013, or approximately 0.4% per year, well below the common law jurisdictions' average of 1.2% per year since 1985.
11. The growth in the number of first year places in Canada's Common Law Schools has matched the growth in the population in Canada's common law jurisdictions in the last decade but has not kept pace with the growth in the population of Canada's common law jurisdictions over the period that CLASSI has gathered admissions information. According to Statistics Canada, Canada's common law population grew steadily from 1986 to 2013, from approximately 18,777,000 to 27,003,000, an increase of 49% or approximately 2.9% per year. By comparison, even including an estimate for TRU, the number of first year law school places has grown over the same period (1986 to 2013) by 537, 22.8%, or 0.8% per year.

12. The growth of law school places in British Columbia has been even more modest. According to Statistics Canada, British Columbia's population has grown from 2,883,000 in 1986 to 4,582,000 in 2013, 58.9%, or 2.2% per year. By comparison, the number of first year places in British Columbia's law schools (including an estimate for TRU of 100 in 2013) has grown from 347 in 1986 to 386 in 2013, 11.2%, or 0.5% per year.
13. Another way of examining this information is by comparing the number of first year places available in a province to that province's population. Using this approach, and taking 2013 as a measure, the number of places available in Canada's Common Law Schools in comparison with the Canadian common law jurisdictions' population is 96.2 first year places per million of population. By comparison, (including an approximation of 100 places for TRU) the British Columbia ratio of first year places per million of population is approximately 84 (386 places for a population of 4.582 million), 15% below the national average.
14. Probably because of this, a greater percentage of British Columbians study law in other provinces than the residents of any other province that has a law school. Excluding TRU (for which this information is not available), in 2013, 50.7% of British Columbians entering a Canadian Common Law School attended outside their home province, the highest in common law Canada.

SWORN before me at the City of  
Saskatoon, in the Province of  
Saskatchewan, this 26  
day of May, 2014.



A Commissioner for taking affidavits  
for Notary Public for  
Saskatchewan

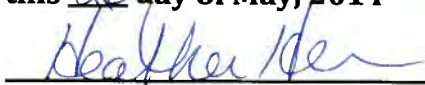


William Brent Cotter



## EXHIBIT "A"

**This is Exhibit "A" referred to in  
the Affidavit of William Brent Cotter  
sworn before me at Saskatoon, SK.  
this 26 day of May, 2014**

  
**A Commissioner for taking affidavits  
for Notary Public for Saskatchewan**

# **REPORT ON CANADIAN COMMON LAW ADMISSIONS INFORMATION AND STATISTICS: 2012, 2013 and HISTORICAL PERSPECTIVE 1985-2013**

by: Brent Cotter  
April, 2014

## **INTRODUCTION**

This report is divided into two parts. The first section, entitled **Admissions Information - 2012 and 2013**, summarizes and analyzes Canadian Common Law Schools' Admissions Information for the last two entering classes, September of 2012 and 2013, respectively. [No Report was prepared in relation to the 2012 entering classes, so this is a 'two year' Report.] This report is supplemented with preliminary information on Applications for, and the anticipated number of places in, First Year Law at the Common Law Schools in September 2014.

This portion of the Report examines Admissions information collected by Canada's Common Law Schools, and identifies a few recent trends in Canadian Common Law Admissions.

The second part of this Report, entitled **Analysis of Historical Trends in Canadian Common Law School Admissions**, uses information collected by Canada's Common Law Schools under the auspices of Canadian Law Admissions Statistics, Services and Innovations (CLASSI). CLASSI began collecting and sharing law schools' admissions information in 1984. This survey instrument was modified and supplemented over the years, but most of the core information that was begun to be collected in the mid-1980s has continued without modification, making historical comparisons possible.

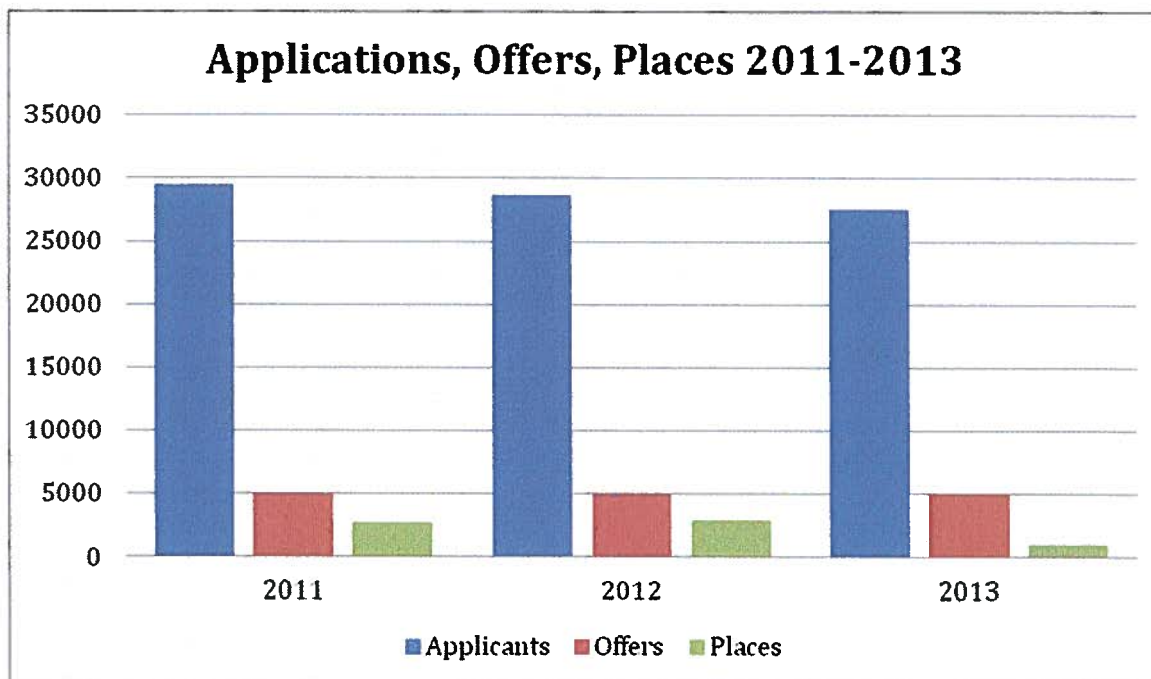
## **I. ADMISSIONS INFORMATION – 2012 AND 2013**

### **A. APPLICATIONS<sup>1</sup>, OFFERS AND REGISTERED STUDENTS**

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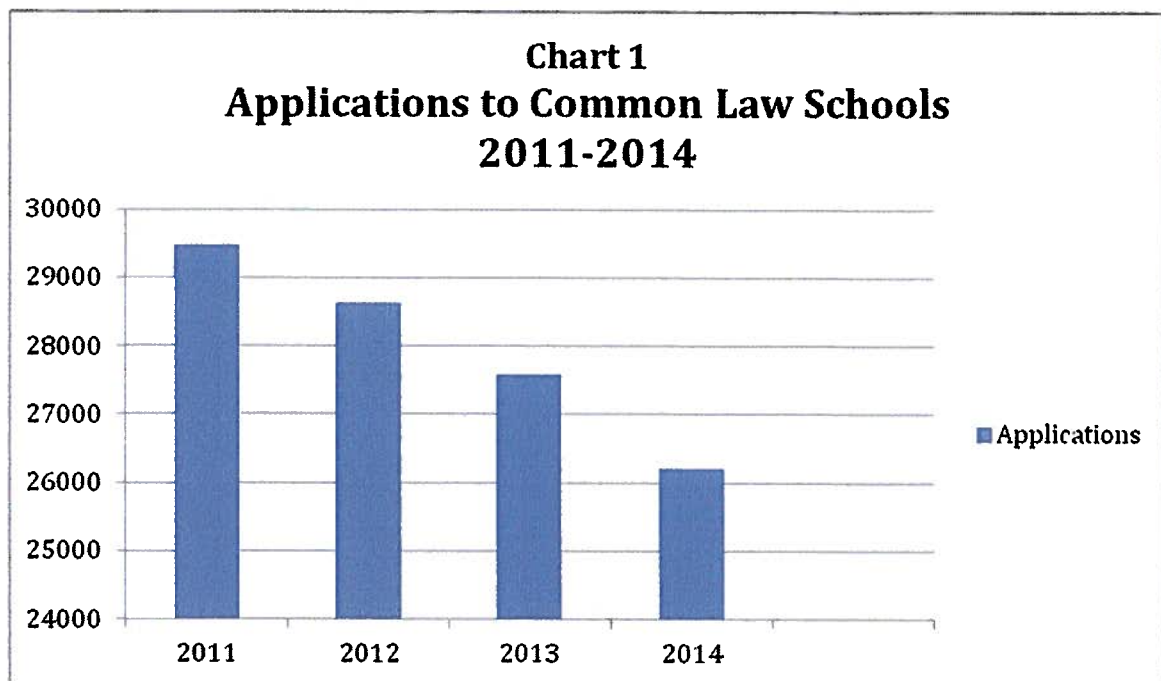
<sup>1</sup> It is important to note that these numbers do not represent the number of actual applicants to Canada's Common Law Schools. Most applicants make multiple applications, and CLASSI does not have a way of identifying 'applicants' as opposed to 'applications'. The best proxy for the actual number of applicants in the system in any one year is the number of people who wrote the Law School Admissions Test (LSAT) in

In the last two years there has been a modest decline in applications to Canada's Common Law Schools. This is a decline from near record high levels of applicants (29475) in 2011. The total number of applications declined 2.9% to 28,633 in 2012 and a further 3.9% to 27583 in 2013. Based on recently compiled information for the 2014 Admissions Year, applications appear to have declined this year by another 4.9% to 26,218. This will represent a three year decline of 11.1%.

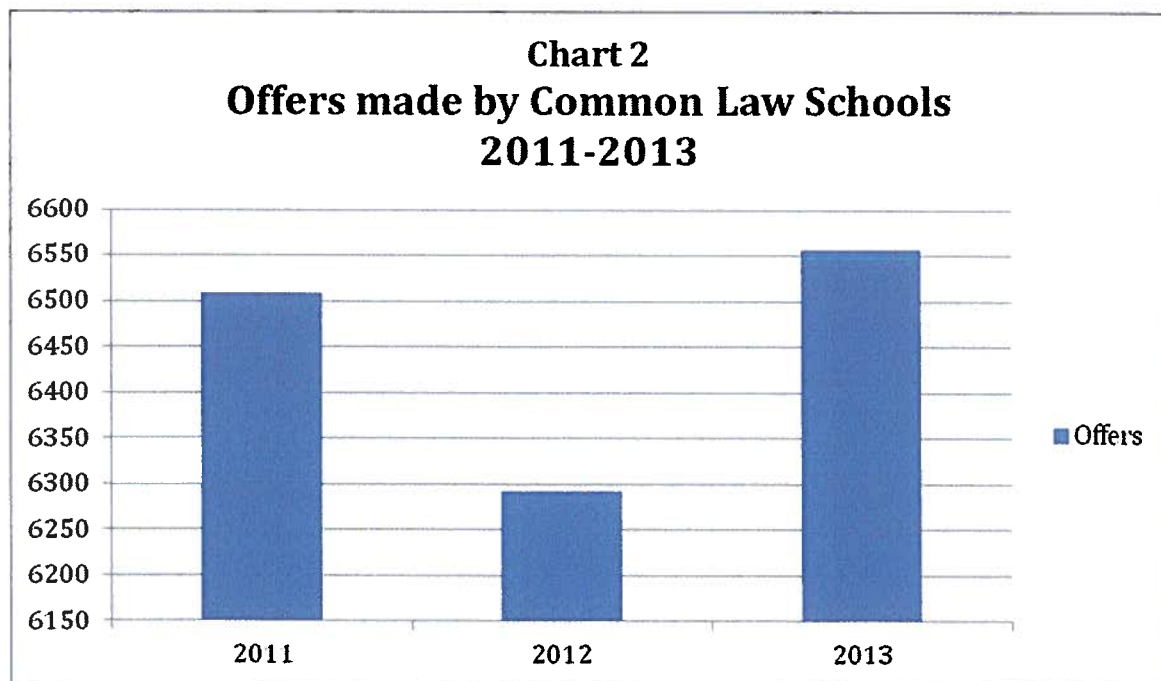


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Canada in any one applicant year. Although some LSAT test takers elect not to apply to law school that year, or ever, and some candidates take the LSAT multiple times, it is a closer approximation of the Canadian applicant pool than any other available statistic. This number is between 9,000 and 10,000 LSAT test-takers in Canada in recent years.

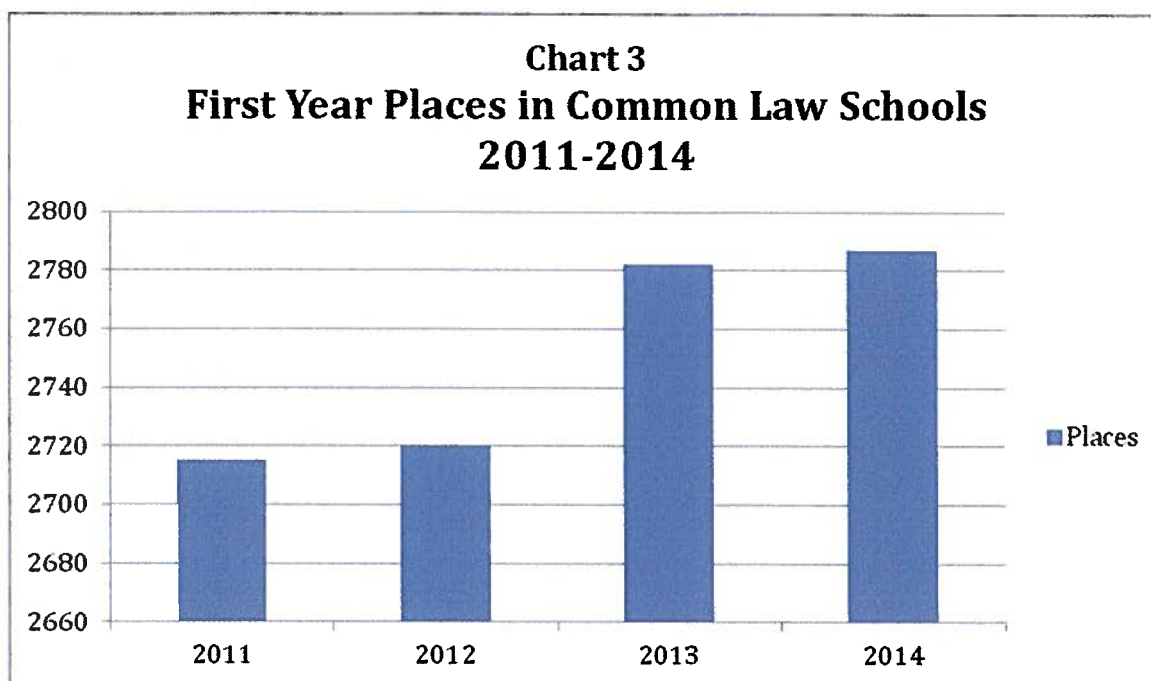


To fill first year law classes, law schools made 6508 offers to candidates in 2011, 6292 in 2012 and 6557 in 2013. This represents a slight increase in offers over these two years, primarily explained by the modest growth in the number of law school places available in the last two years.



The actual number of students enrolled in first year of law school grew slightly from 2011 to 2012 (an increase from 2715 to 2720, or 0.2%%) and to 2782 students in 2013 (an increase of 2.3%). The number of places in

Canada's Common Law Schools in 2014 is anticipated to be approximately 2787, almost identical to the number of places taken up by entering law students in 2013.



On average, the 'yield rate (the ratio between the number of offers a law school makes and the places in its first year class) has remained relatively steady at 2.51:1 for 2013. Law schools with a 'yield rate' above the norm must make more offers to applicants in order to fill their first year law classes. Law schools that have a 'yield rate' below the norm are able to make fewer offers to fill their first year classes.

## **B. COMPARISON WITH ADMISSIONS AT ABA APPROVED LAW SCHOOLS**

By comparison, ABA Approved law schools have experienced precipitous declines in applications, applicants and first year registrants in recent years. The Law School Admission Council reports that the number of applicants to ABA Approved Law Schools declined from 78,800 in 2011 to 59,400 in 2013, a drop of 24.5% and the number of students registering in first year law declined from 48,700 in 2011 to 39,700, a drop of 18.5%.<sup>2</sup> This is the lowest level of applicants and registrants in decades in the US, and it has been suggested that both the number of applicants to ABA Approved law schools

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<sup>2</sup> Law School Admissions Council Reports, 2013, End of Year Summary 2003–Present (ABA applicants, applications, admissions, matriculants, enrollment, tests, CAS)

and the number of law school places are now at their lowest point since the mid-1970s<sup>3</sup>.

### **C. SUB-CATEGORIES OF APPLICANTS, OFFEREES AND ENTERING STUDENTS**

CLASSI gathers information on applicants on the basis of gender, on the basis of whether an applicant is a 'mature' or 'other' applicant, and on the basis of whether an applicant is of self-declared Aboriginal ancestry. CLASSI also gathers information on the age of its entering classes. This latter information is not analyzed in this Report.

#### **1. GENDER<sup>4</sup>**

With respect to gender, there have been noticeable changes in the patterns of applicants and entrants into the first year of law school over the period that CLASSI has been conducting its surveys. In recent years, the number of applications from males continues to be lower than applications from females. Despite this, the number of first year places taken up by males has been greater than their proportion in the total applicant pool. Nevertheless, since 1996, the number of women entering Canada's Common Law Schools have exceeded the number of men in every year. However, in 2012, for the first time in nearly 20 years, the number of men entering Canada's Common Law Schools exceeded the number of women. In 2013 the number of women entering Common Law Schools exceeded the number of men.

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<sup>3</sup> Wall Street Journal, Blog, Jan. 2, 2014, Law 2014: Paring Back at U.S. Law Schools Continues.

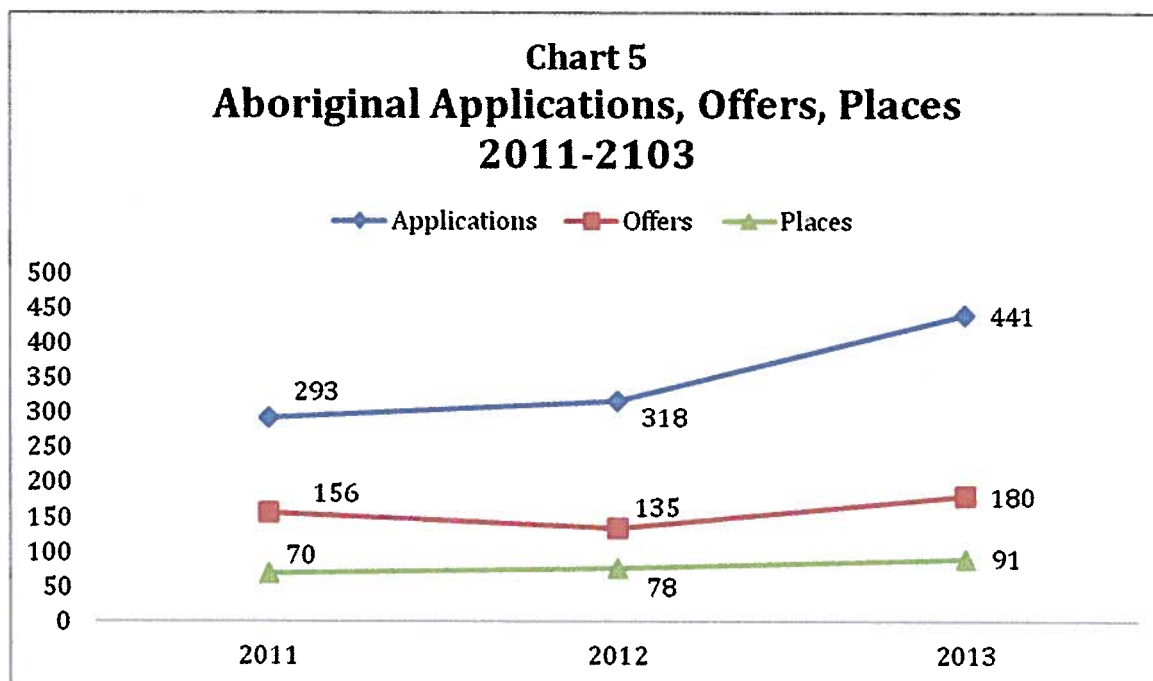
<sup>4</sup> Some law schools do not consistently report on the gender breakdown of their applicant or 'offer' pools, so these categories are not perfectly accurate. All law schools report the gender breakdown of their entering classes, so the gender percentages of first year law classes are highly reliable.

**Chart 4**  
**Male and Female Applications, Offers, Registered**  
**2011-2013**

Year	Application %		Offer %		Registered %	
	Male	Female	Male	Female	Male	Female
2011	46.5	53.5	46.5	53.5	47.5	52.5
2012	46.9	53.1	49.0	51.0	50.1	49.9
2013	46.9	53.1	49.0	51.0	49.4	50.7

## 2. ABORIGINAL ANCESTRY

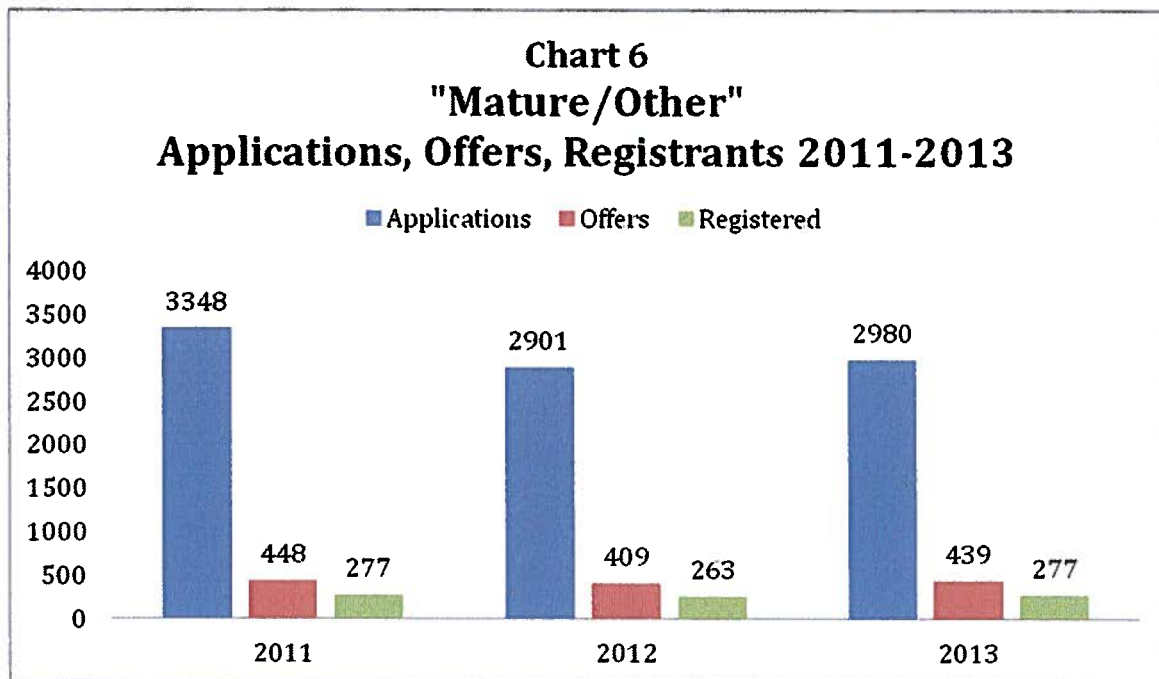
After many years during which the number of Aboriginal applicants and law school entrants had been static, there was a noticeable change in 2013.



The number of applications from Aboriginal Applicants in 2013 increased to 441, the highest number of applications to Canada's Common Law Schools in history, and the number of entering first year law students of Aboriginal ancestry in 2013 (91) is the third highest ever. Applications information for 2014 (418) suggests that the number of applications from people of Aboriginal ancestry has approached 2013 levels.

### 3. MATURE/OTHER APPLICANTS<sup>5</sup>

A pattern throughout the last decade is that the percentage of Common Law School entering classes composed of 'mature' and 'other' applicants, the main components of what is often described as the category of 'discretionary admissions', has declined. In 2011 the 'Mature/Other' categories of applicants constituted 11.3% of the applicant pool, declining to 10.2% in 2012 and increasing slightly to 10.8% in 2013. 'Mature/Other' students made up 10.2%, 9.7% and 10.0% of the entering classes in 2011, 2012 and 2013 respectively.



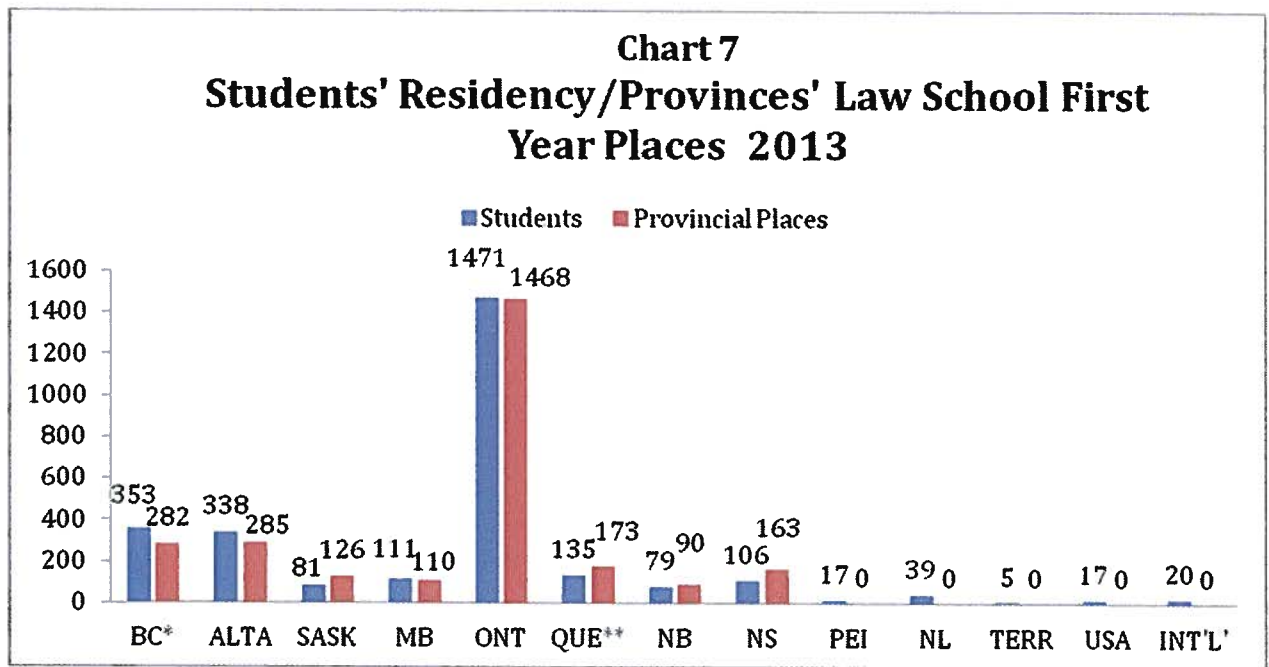
When combined with the numbers of Aboriginal applicants and Aboriginal first year students, (often referred to collectively as 'discretionary' admissions categories), they represented 12.3% of applicants in 2013 and 11.3% and 12.3% in 2012 and 2013 respectively. Discretionary admissions into Canada's Common Law Schools represented 12.8%, 12.6% and 13.3% of entering classes in 2011, 2012 and 2013 respectively. This continues the pattern in which discretionary admissions to law school continue at percentages in the low teens, and below historical levels.

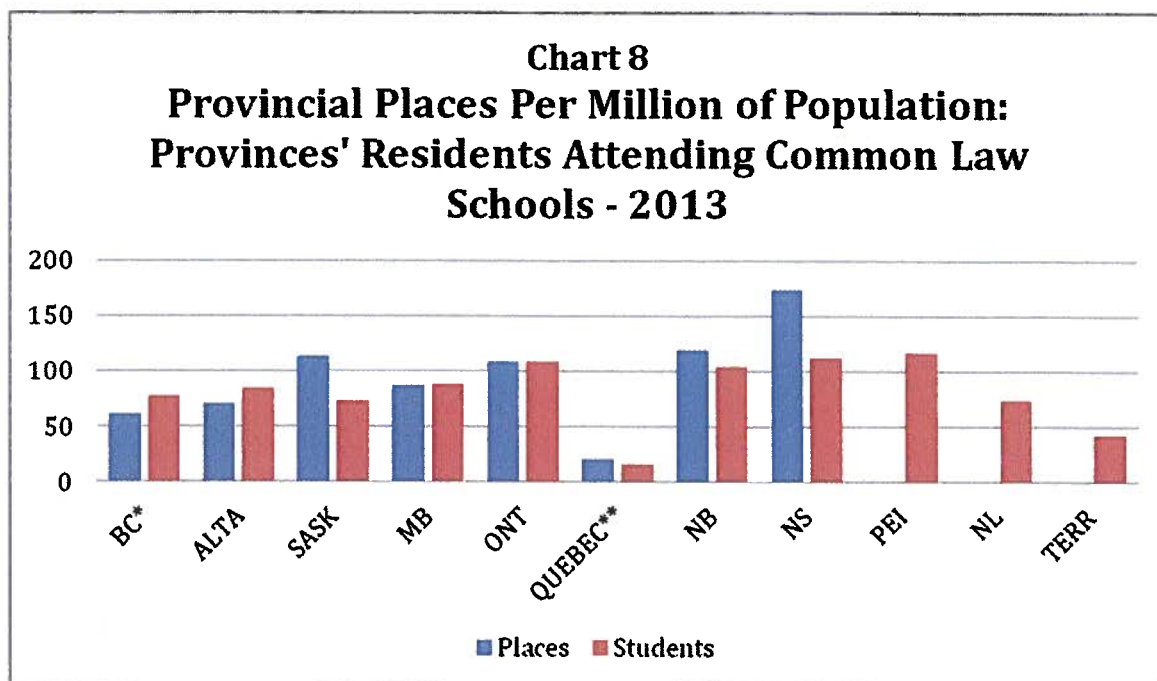
<sup>5</sup> Each law school has its own definition of 'mature' and 'other' categories of applicants to their respective law schools, and one law school does not categorize applicants in this way at all. These categorizations are relatively consistent over time, but are not perfectly comparable, school by school, or globally.



#### D. FIRST YEAR LAW STUDENTS – RESIDENCE

Until recently, CLASSI did not ask law schools to compile information on the province or territory of permanent residence of the students in its entering first year law classes. Initial efforts at the compilation of this information were inconsistent, and the first year in which this information was fully and accurately compiled and reported was 2013. This information identifies the degree of national mobility and 'national reach' of Canadian common law education.





## II. ANALYSIS OF HISTORICAL TRENDS IN CANADIAN COMMON LAW SCHOOL ADMISSIONS<sup>6</sup>

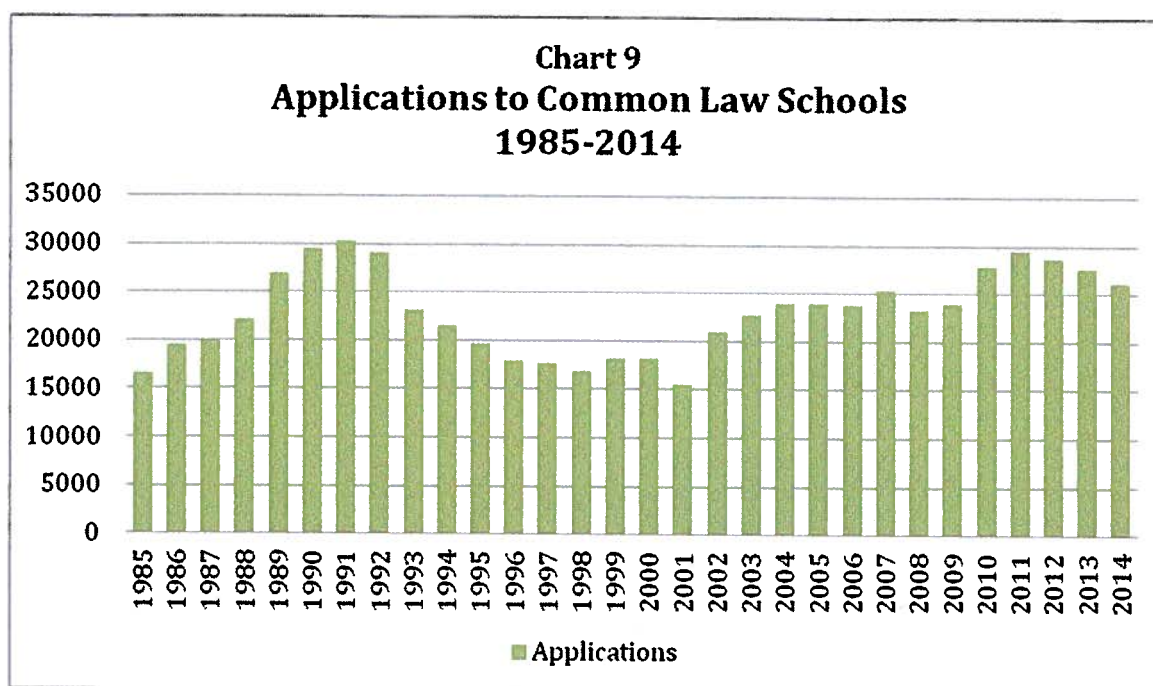
Much of the information in this section is presented in the form of Charts. It provides an historical perspective with respect to the more contemporary Admissions information discussed in the previous section of this Report.

### A. APPLICATIONS, OFFERS, REGISTERED STUDENTS

Although not entirely quantifiable, the numbers of applications to Canada's Common Law Schools has significantly exceeded the number of available places in entering classes since the early 1970s, and up to the years when CLASSI began recording Admissions information on a more comprehensive basis. As can be seen in the following graphs, application numbers:

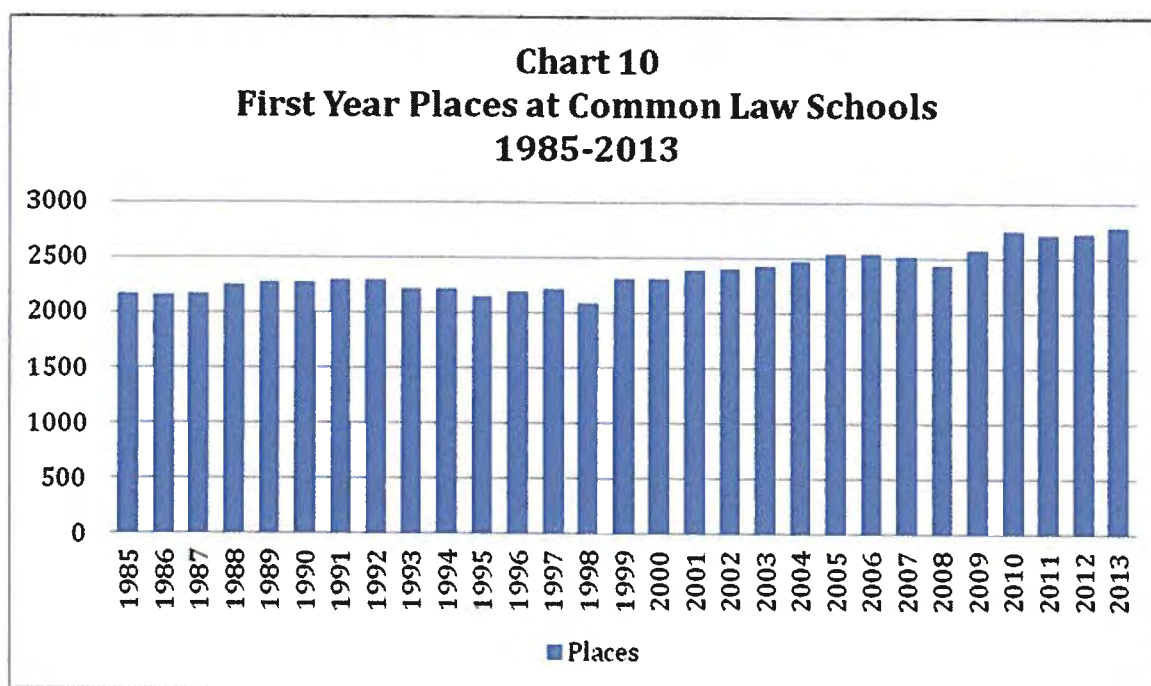
- continued to increase through the 1980s and early 1990s to an historic peak in 1992;
- dropped significantly through the mid to late 1990s and early 2000s;
- began to increase again in the late 2000s, up to 2011 to levels approaching historical highs; and
- have moderated slightly in 2012, 2013 and 2014.

<sup>6</sup> Most of the information presented here is drawn from CLASSI Statistics compiled since 1985. CLASSI began collecting this information in 1984, but the information collected in that year is quite incomplete.



With respect to the number of first year places at Canada's Common Law Schools, the pattern is different. Two different periods are clearly identifiable:

- Through most of the period from 1985 to the early 2000s, the Common Law Schools made available approximately the same number of places in their first year classes. From 1985 to 2000, there was an increase of 156 places, or 7.2%, less than .5% per year.
- This relative static pattern began to change after 2000 with increasing numbers of places available. From 2000 to 2013, there was an increase of 479 places, 20.8%, or 1.6% per year.



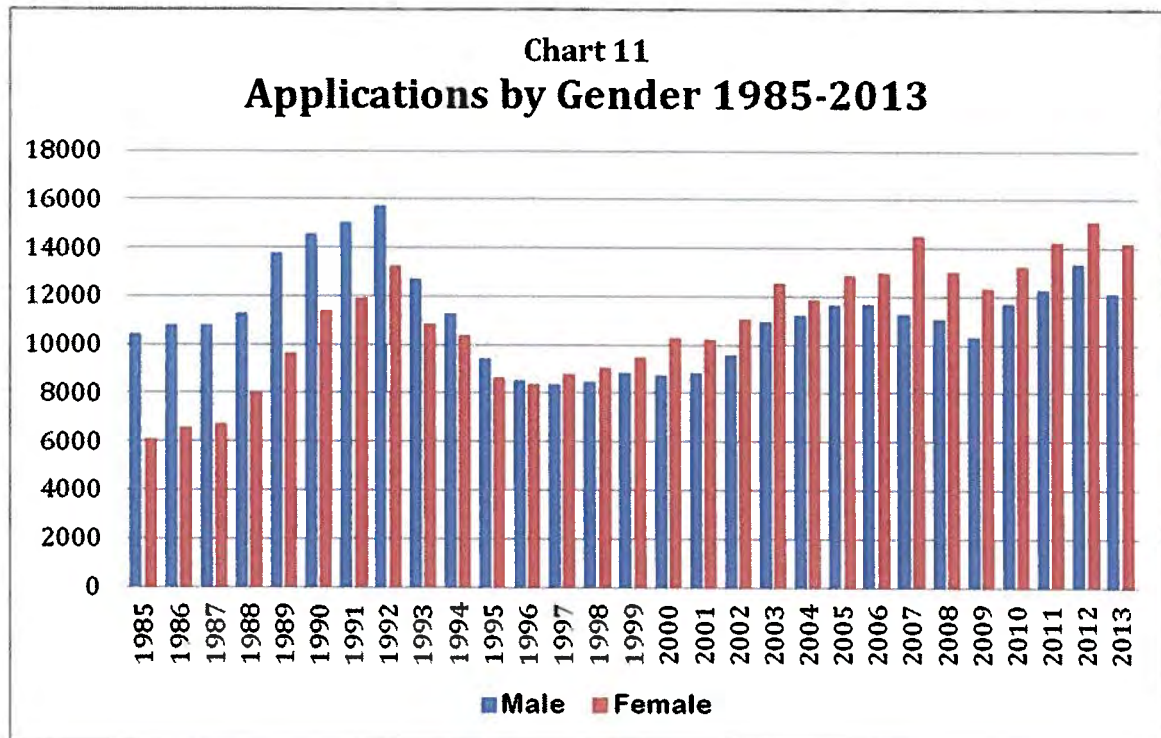
## **SUB-CATEGORIES OF APPLICANTS, OFFEREES, REGISTERED STUDENTS**

### **1. GENDER**

Historically, legal education has been the province of men. As the composite photos of graduating law classes at every Canadian Common Law School bear out, until the early 1970s women graduates were a rarity, and even modest numbers of women law students and law graduates did not make their appearance until the mid to late 1970s.

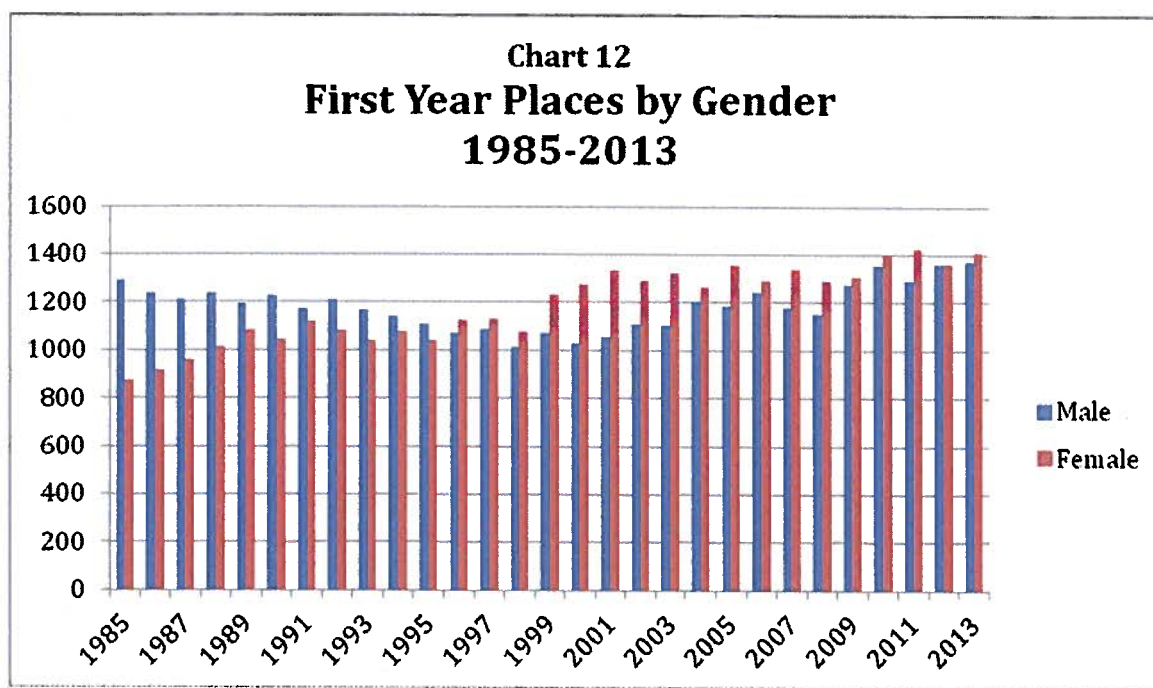
More recently, however, one of the most observable trends in Canadian Law School Admissions, and in the composition of law school student communities, has been the increase in the numbers of women applying to and attending law school. Law School Admissions information bears this out. In 1985, when reasonably comprehensive information began to be collected, the composition of the applicant pool and the composition of first year classes were significantly male. This changed steadily until the mid-1990s when women began to make up an approximately equal proportion of the applicant pool and an equal proportion of entering classes at Common Law Schools.

As the Chart below shows, the number of women applicants steadily increased from 1985 to 1997, when the number of female applicants began to exceed the number of male applicants. This pattern continues to the present day.



Similarly, as Chart 12 highlights, while the gender composition of the first year classes at individual law schools may have varied over the years, the first year in which women collectively made up a greater proportion of entering classes than men in Canada's Common Law Schools was 1996. For the succeeding 16 years, the number of women entering Common Law Schools exceeded the number of men, and, as noted earlier, it was only in 2012 that this trend was interrupted.

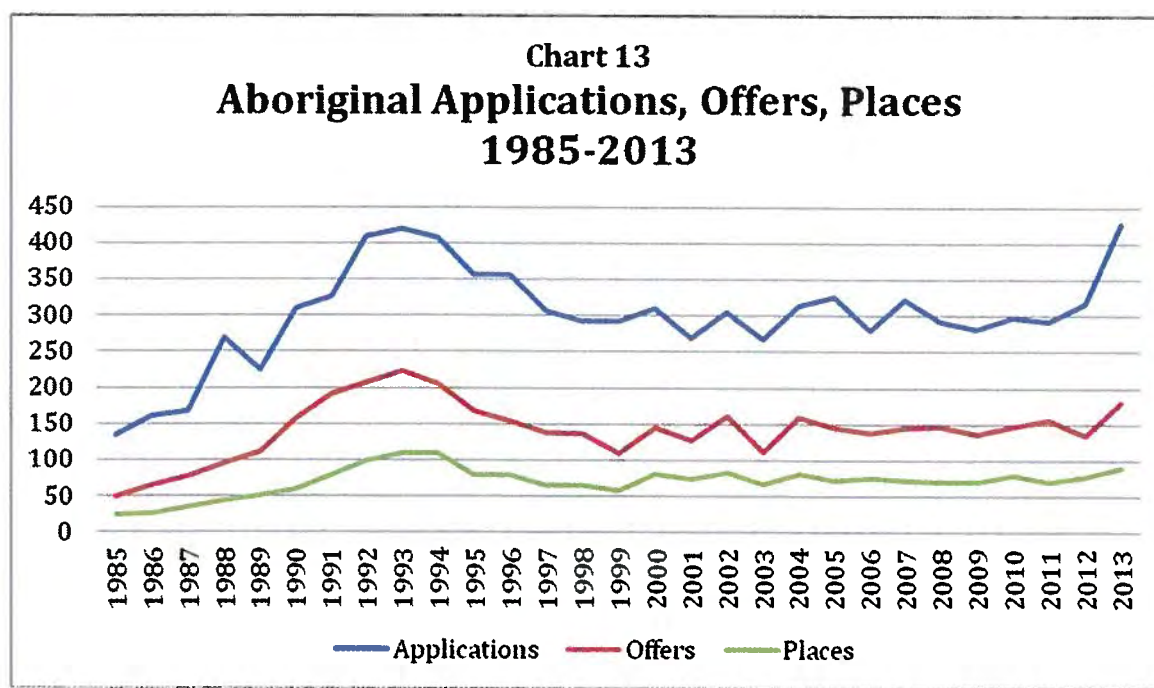




One of the patterns that is also discernible in the CLASSI information is that for the period 1985 through to 2003, in every single year higher proportions of women entered law school than their proportion in the applicant pool (in most years by approximately 5%).

## 2. ABORIGINAL ANCESTRY

As Chart 13 shows, the number of applications from Aboriginal applicants, Aboriginal offerees and Aboriginal students registered in Canada's Common Law Schools increased noticeably from 1985 to 1993. The increases in Aboriginal Applications (from 134 to 410, or 213.4%), Offers (from 49 to 223, or 355.1% and Registrants (from 24 to 109, or 354.2%) during this period was impressive. This trend ended in 1994, and actually reversed itself. Applications from 1994 to 2012 declined by approximately 25%, and the number of Aboriginal students registered in our first year classes dropped to an average of 77 over these years, a decline of approximately 29%. It is heartening to see that in 2013 there was a dramatic increase in the number of applications from people of Aboriginal ancestry to a record high level (441), a significant increase in offers to Aboriginal applicants and an increase in Aboriginal first year law students to near record levels (91). Preliminary information for 2014 (429 applicants) suggests that the pattern of increases in applications to Canada's Common Law Schools from persons of Aboriginal ancestry is continuing.

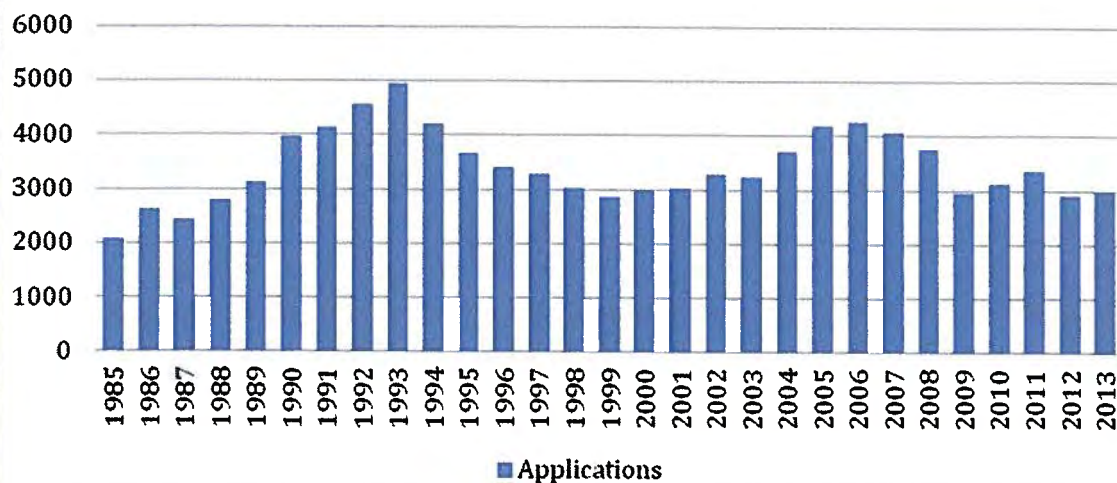


### 3. MATURE/OTHER APPLICANTS

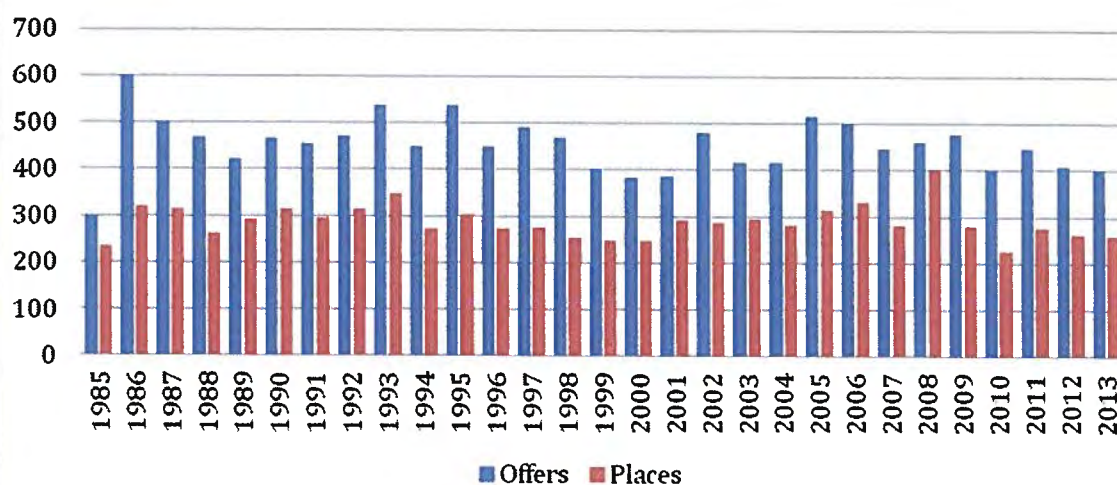
Over the period that CLASSI has compiled Admissions Information, Mature/Other Students have made up, variously, 10 to 20% of entering classes. Charts 14 and 15 below track the variations in the share of the applicant pool and the proportion of entering law schools classes composed of Mature/Other candidates. As well, the Charts set out the percentage of the applicant pool and the proportion of entering law schools composed of "Discretionary Admissions", a combination of the Aboriginal and 'Mature/Other' categories of applicants.

As can be seen there has been an appreciable decline in the proportion of Mature/Other applications since 1996 (when Mature/Other applications made up 19.0% of the application pool, compared with 10.8% in 2013) and a similar decline in the proportion of Mature/Other and Discretionary Admissions since 1993 (when Mature/Other registrants made up 21.3% of entering classes and Discretionary Admissions in total made up 23.1% of entering classes compared with 10% and 13.3%, respectively, in 2013).

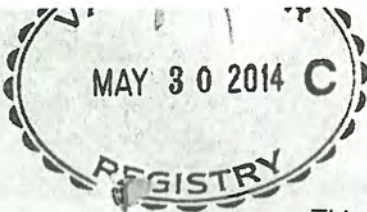
**Chart 14**  
**"Mature/Special/Other" Applications**  
**1985-2013**




**Chart 15**  
**"Mature/Special/Other" Offers, Places**  
**1985-2013**







This is Exhibit "M" referred to in the  
affidavit of Tracy Tso  
sworn before me at Vancouver  
this 16 day of January 2015  
  
A Commissioner for taking Affidavits  
for British Columbia

This is the 2<sup>nd</sup> Affidavit  
of Cheryl McKinnon in this case  
and was made on 28/05/2014

No. S-142908  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**BETWEEN:**

**TREVOR JAMES LOKE**

**PETITIONER**

- and -

**BRITISH COLUMBIA (MINISTER OF ADVANCED EDUCATION)**

**RESPONDENT**

**AFFIDAVIT #2 OF CHERYL MCKINNON**

I, CHERYL MCKINNON, Law Clerk, of the Town of Oakville, Province of Ontario, **MAKE OATH AND SAY:**

1. I am a law clerk at the law firm of Ruby Shiller Chan Hasan, Barristers, counsel for the Petitioner. I have personal knowledge of the matters contained in this affidavit. Where I have sworn to evidence based on information provided to me by others, I have identified the source of the information and I verily believe such information to be true.
2. On November 6, 2009, the Trinity Western University Board of Governors adopted a "Statement of Faith". On May 28, 2014, I located the Statement of Faith at the

following URL: <http://twu.ca/divisions/hr/employee/documents/statement-of-faith.pdf>. A copy of the Statement of Faith that I located is attached hereto as **Exhibit "A"**.

3. In August, 2011, the Federation of Law Societies of Canada's Common Law Degree Implementation Committee published a report entitled "Final Report to the Council of the Federation of Law Societies of Canada." On May 28, 2014, I located the Report at the following URL: [http://www.flsc.ca/\\_documents/Implementation-Report-ECC-Aug-2011-R.pdf](http://www.flsc.ca/_documents/Implementation-Report-ECC-Aug-2011-R.pdf). A copy of the Report that I located is attached hereto as **Exhibit "B"**.

4. In August, 2013, the American Bar Association released a Report entitled "Standards and Rules of Procedure for Approval of Law Schools 2013-2014". On May 28, 2014, I located the Report at the following URL: [http://www.americanbar.org/content/dam/aba/publications/misc/legal\\_education/Standards/2013\\_2014\\_final\\_aba\\_standards\\_and\\_rules\\_of\\_procedure\\_for\\_approval\\_of\\_law\\_schools\\_body.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2013_2014_final_aba_standards_and_rules_of_procedure_for_approval_of_law_schools_body.authcheckdam.pdf). A copy of the Report that I located is attached hereto as **Exhibit "C"**.

5. In the Fall of 2013, Trinity Western University published a Media Fact Sheet. On May 28, 2014, I located the Statement of Faith at the following URL: <http://twu.ca/academics/school-of-law/twu-fact-sheet.pdf>. A copy of the fact sheet that I located is attached hereto as **Exhibit "D"**.

6. On December 16, 2013 the Federation of Law Societies granted preliminary approval to Trinity Western University's faculty of law. Preliminary approval was granted through a document entitled "Federation of Law Societies". On May 28, 2014, I located the Approval at the following URL: [http://www.flsc.ca/\\_documents/ReferralletterlawsocietiesDec162013.pdf](http://www.flsc.ca/_documents/ReferralletterlawsocietiesDec162013.pdf). A copy of the Approval that I located is attached hereto as **Exhibit "E"**.

7. In 2014, the Ontario Universities' Application Centre published their annual "Law School Application Statistics". On May 28, 2014, I located the statistics at the

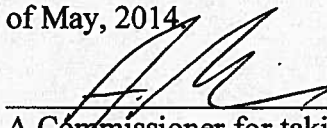
following URL: <http://www.ouac.on.ca/statistics/law-school-application-statistics/>. A copy of the statistics that I located is attached hereto as **Exhibit "F"**.

SWORN before me at the Town )

of Oakville, in the Province )

of Ontario, this 28<sup>th</sup> day )

of May, 2014. )

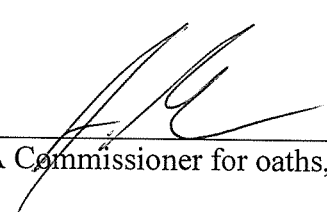
  
A Commissioner for taking affidavits  
for Ontario )

**Amanda Jane Machin,  
a Commissioner, etc.,  
Province of Ontario,  
for Ruby Shiller Chan Hasan, Barristers.  
Expires May 25, 2015.**

  
**CHERYL MCKINNON**

1

This is Exhibit "A" to the Affidavit of Cheryl McKinnon  
Sworn Before Me in the City of Toronto, Province of Ontario  
This 28<sup>th</sup> day of May, 2014



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A Commissioner for oaths, etc.



## TRINITY WESTERN UNIVERSITY

### Statement of Faith

As a Christian University, Trinity Western University openly espouses a unifying philosophical framework to which all faculty and staff are committed without reservation. The university identifies with and is committed to historic orthodox Christianity as expressed by the official Statement of Faith.

#### **What we believe:**

#### ***1. God's gospel originates in and expresses the wondrous perfections of the eternal, triune God.***

We believe in one God, Creator of all things, holy, infinitely perfect, and eternally existing in a loving unity of three equally divine Persons: the Father, the Son and the Holy Spirit. Having limitless knowledge and sovereign power, God has graciously purposed from eternity to redeem a people for Himself and to make all things new for His own glory.

#### ***2. God's gospel is authoritatively revealed in the Scriptures.***

We believe that God has spoken in the Scriptures, both Old and New Testaments, through the words of human authors. As the verbally inspired Word of God, the Bible is without error in the original writings, the complete revelation of His will for salvation, and the ultimate authority by which every realm of human knowledge and endeavour should be judged. Therefore, it is to be believed in all that it teaches, obeyed in all that it requires, and trusted in all that it promises.

#### ***3. God's gospel alone addresses our deepest need.***

We believe that God created Adam and Eve in His image, but they sinned when tempted by Satan. In union with Adam, human beings are sinners by nature and by choice, alienated from God, and under His wrath. Only through God's saving work in Jesus Christ can we be rescued, reconciled and renewed.

#### ***4. God's gospel is made known supremely in the Person of Jesus Christ.***

We believe that Jesus Christ is God incarnate, fully God and fully man, one Person in two natures. Jesus—Israel's promised Messiah—was conceived through the Holy Spirit and born of the virgin Mary. He lived a sinless life, was crucified under Pontius Pilate, arose bodily from the dead, ascended into heaven and sits at the right hand of God the Father as our High Priest and Advocate.

#### ***5. God's gospel is accomplished through the work of Christ.***

We believe that Jesus Christ, as our representative and substitute, shed His blood on the cross as the perfect, all-sufficient sacrifice for our sins. His atoning death and victorious resurrection constitute the only ground for salvation.

#### ***6. God's gospel is applied by the power of the Holy Spirit.***

We believe that the Holy Spirit, in all that He does, glorifies the Lord Jesus Christ. He convicts the world of its guilt. He regenerates sinners, and in Him they are baptized into union with Christ and adopted as heirs in the family of God. He also indwells, illuminates, guides, equips and empowers believers for Christ-like living and service.

#### ***7. God's gospel is now embodied in the new community called the church.***

We believe that the true church comprises all who have been justified by God's grace through faith alone in Christ alone. They are united by the Holy Spirit in the body of Christ, of which He is the Head. The

true church is manifest in local churches, whose membership should be composed only of believers. The Lord Jesus mandated two ordinances, baptism and the Lord's Supper, which visibly and tangibly express the gospel. Though they are not the means of salvation, when celebrated by the church in genuine faith, these ordinances confirm and nourish the believer.

**8. *God's gospel compels us to Christ-like living and witness to the world.***

We believe that God's justifying grace must not be separated from His sanctifying power and purpose. God commands us to love Him supremely and others sacrificially, and to live out our faith with care for one another, compassion toward the poor and justice for the oppressed. With God's Word, the Spirit's power, and fervent prayer in Christ's name, we are to combat the spiritual forces of evil. In obedience to Christ's commission, we are to make disciples among all people, always bearing witness to the gospel in word and deed.

**9. *God's gospel will be brought to fulfillment by the Lord Himself at the end of this age.***

We believe in the personal, bodily and glorious return of our Lord Jesus Christ with His holy angels when He will bring His kingdom to fulfillment and exercise His role as Judge of all. This coming of Christ, at a time known only to God, demands constant expectancy and, as our blessed hope, motivates the believer to godly living, sacrificial service and energetic mission.

**10 *God's gospel requires a response that has eternal consequences.***

We believe that God commands everyone everywhere to believe the gospel by turning to Him in repentance and receiving the Lord Jesus Christ. We believe that God will raise the dead bodily and judge the world, assigning the unbeliever to condemnation and eternal conscious punishment and the believer to eternal blessedness and joy with the Lord in the new heaven and the new earth, to the praise of His glorious grace. Amen.

**PLEASE CHOOSE ONE OF THE FOLLOWING:**

- ☐ I agree with the above Statement of Faith and agree to support that position at all times before the students and friends of Trinity Western University.

Date: \_\_\_\_\_ Name (signed): \_\_\_\_\_

Name (printed): \_\_\_\_\_

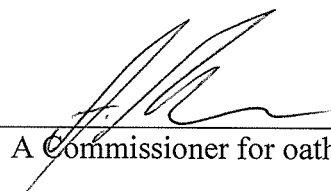
===== OR =====

- ☐ I agree with the above Statement of Faith and agree to support that position at all times before the students and friends of Trinity Western University. However, I wish to clarify my understanding of an article(s) on a separate, attached sheet.

Date: \_\_\_\_\_ Name (signed): \_\_\_\_\_

Name (printed): \_\_\_\_\_

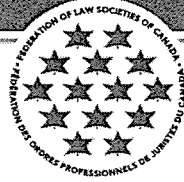
This is Exhibit "B" to the Affidavit of Cheryl McKinnon  
Sworn Before Me in the City of Toronto, Province of Ontario  
This 28<sup>th</sup> day of May, 2014



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A Commissioner for oaths, etc.

*Federation of Law Societies  
of Canada*



*Fédération des ordres professionnels  
de juristes du Canada*

# **Common Law Degree Implementation Committee**

## **Final Report**

**August 2011**

This report is presented to the Council of the Federation of Law Societies of Canada for consideration. None of the recommendations contained herein is effective unless approved by the Federation and its member law societies.



## TABLES AND APPENDICES

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## INTRODUCTION

The Federation of Law Societies of Canada's Common Law Degree Implementation Committee (the "Committee") is pleased to provide this final report to the Council of the Federation of Law Societies of Canada (the "Federation"). In accordance with its mandate, the Committee has developed a proposal to implement the uniform national requirement (the "national requirement") for entry to law society admission programs<sup>1</sup> in Canadian common law jurisdictions.

The Committee's 20 recommendations develop a coherent implementation structure that is detailed and appropriately balanced in its effect on law schools, the National Committee on Accreditation (the "NCA"), law societies and the body that will determine compliance with the national requirement. The recommendations ensure that the intent of the Federation's Task Force on the Canadian Common Law Degree (the "Task Force") and the manner in which the Task Force's recommendations are to be implemented are clear to:

- law schools that will meet the national requirement and report on their programs annually;
- the compliance body;
- the NCA, which will apply the requirements to applicants seeking Certificates of Qualification;
- law societies; and
- the public.

They reflect the principle underlying the Task Force's recommendations that its report should not interfere with innovation and flexibility in Canadian law school education.

As the Federation and its member law societies implement the national requirement there is a valuable opportunity to strengthen and advance the institutional relationship between law societies and Canadian law schools at a national level. The Committee's process has convinced all its members that such a collaborative national dialogue is both feasible and vital to the interests of furthering law societies and the legal academy's commitment to a legal profession that is learned, competent and dedicated to the public interest.

<sup>1</sup> The term "law society admission program" refers to and includes all the pre-licensing processes, however named, of law societies in the common law provinces and territories leading to admission to the profession.

## RECOMMENDATIONS

### Recommendation 1

The commentary set out in **TABLE A** regarding the competency requirements be approved.

### Recommendation 2

The elaboration of the professionalism and ethics competency set out in **TABLE B** be approved.

### Recommendation 3

"Course" relating to ethics and professionalism instruction be interpreted to allow for both:

- a single stand alone course devoted to ethics and professionalism that at a minimum addresses the required competencies set out at **TABLE B**, and
- a demonstrable course of study devoted to ethics and professionalism that could be delivered:
  - (1) within a single course that addresses other topics, provided there is a dedicated unit on ethics and professionalism that at a minimum addresses the required competencies set out in **TABLE B**; and/or
  - (2) in multiple years within courses that address other topics, provided there are dedicated units on ethics and professionalism that at a minimum address the required competencies set out in **TABLE B**.

### Recommendation 4

By 2015, graduates seeking entry to law society admission programs be required to have taken a demonstrable course of study dedicated to ethics and professionalism that is a minimum of 24 hours, is formally assessed and, at a minimum, addresses the required competences set out in **TABLE B**.

### Recommendation 5

The commentary and direction set out in **TABLE C** regarding the approved common law degree academic program requirements be approved.

### Recommendation 6

The commentary and direction set out in **TABLE D** regarding the approved common law degree required learning resources be approved.

### Recommendation 7

Law schools be entitled to comply with the national requirement by using the Program Approval Model or the Individual Student Approval Model for a given program, including joint degree programs.

### Recommendation 8

A graduate from a school applying the Individual Student Approval Model to a given program be eligible for entry to law society admission programs if he or she provides an official transcript from the degree granting institution certifying that he or she has met the national requirement for entry to law society admission programs.

**Recommendation 9**

A graduate who has not met the national requirement who subsequently seeks entry to a law society admission program be required to obtain first a Certificate of Qualification from the NCA.

**Recommendation 10**

The Federation website identify whether schools apply the Program Approval Model or the Individual Student Approval Model to a given program.

**Recommendation 11**

The Canadian Common Law Program Approval Committee (the "Approval Committee") be authorized to make any changes, revisions or additions to the standardized annual report form set out in **Appendix 3** as it determines necessary, provided the changes, revisions or additions conform to the national requirement and reflect the purposes as described in this report.

**Recommendation 12**

The compliance process set out in **TABLE E** be approved.

**Recommendation 13**

The Approval Committee be authorized to make any changes, revisions or additions to the draft reporting timeline set out in **Appendix 4** and any other reporting timelines as it determines necessary to ensure that the compliance process operates in an effective manner.

**Recommendation 14**

Beginning in 2015 and annually thereafter the Approval Committee's final reports be public and posted on the Federation's website. These reports will set out the basis for the Approval Committee's findings respecting each law program for which approval is sought, provided that any information subject to privacy or other personal information will not appear in the public report. The Federation website will also identify each school's programs that apply the Program Approval Model and those that apply the Individual Student Approval Model.

To reflect that the national requirement does not come into effect until 2015, the progress reports in 2012, 2013 and 2014 not be public.

**Recommendation 15**

The Federation establish a new committee to be called the Canadian Common Law Program Approval Committee.

**Recommendation 16**

The Approval Committee have the following mandate:

- To determine law school program compliance with the national requirement for the purpose of entry of Canadian common law school graduates to Canadian law society admission programs. This will apply to the programs of established Canadian law schools and those of new Canadian law schools.

- To make any changes, revisions or additions to the annual law school report as it determines necessary, provided the changes, revisions or additions conform to the approved national requirement and reflect the purposes described in this report.
- To make any changes, revisions or additions to the draft reporting timeline set out in **Appendix 4** and any other reporting timelines as it determines necessary to ensure that the compliance process operates in an effective manner.
- To post its final annual reports on the Federation public website and to post information reports on the website, covering, at a minimum, the list of approved law school programs and issues of interest respecting the continuum of legal education.
- To participate in efforts and initiatives to enhance the institutional relationship between law societies and law schools at a national level. This could, for example, include efforts such as promoting a voluntary national collaboration on ethics and professionalism learning that would further enhance teaching, learning and practice in this area.
- To ensure appropriate training for its members.
- To undertake such other activities and make any necessary changes, additions or improvements to its processes as it determines necessary to ensure the effective implementation of the national requirement, provided these reflect the purposes described in this report.

#### **Recommendation 17**

The Federation, with the assistance of the Approval Committee, undertake regular evaluation of the national requirement and compliance process, the first to be completed at least by 2018 and no less frequently than every five years thereafter. The Federation should determine the timing and terms of reference for the evaluation and the reporting timeline and the Approval Committee should ensure that the evaluation is completed and any recommendations made within the timeline. Nothing in this recommendation should preclude adjustments and changes to the compliance process in the years between evaluations, as set out in the mandate in Recommendation 16. It should be open to the Approval Committee to recommend the timing of the evaluations.

#### **Recommendation 18**

The qualifications to be represented among the members of the Approval Committee set out in **TABLE F** be approved.

#### **Recommendation 19**

The appointment process, size, member composition and term of service for the Approval Committee set out in **TABLE G** be approved.

#### **Recommendation 20**

The Approval Committee be resourced forthwith and with sufficient professional and support staff and financial resources to enable it to fulfil its mandate. Law societies, through the Federation, fund the Approval Committee.

## THE REPORT

### BACKGROUND

The Federation's Task Force on the Canadian Common Law Degree (the "Task Force") issued its final report in October 2009. That Report recommends that law societies in common law jurisdictions in Canada adopt a uniform national requirement for entry to their admission programs (the "national requirement"). It further recommends that by no later than 2015, and thereafter, all applicants seeking entry to a law society admission program must have met the national requirement. The Task Force report recommends that the National Committee on Accreditation (the "NCA") apply the national requirement in assessing the qualifications of individuals with legal education and experience obtained outside Canada or in civil law degree programs in Canada who wish to be admitted to a law society in a common law jurisdiction. It also recommends that the national requirement be applied in considering applications for the approval of programs of new Canadian law schools.

The national requirement specifies the required competencies that graduates must have attained and the law school academic program and learning resource requirements that law schools must have in place to enable entry of graduates to law society admission programs. It applies to the J.D. or LL.B. programs of existing law schools and to applications for recognition of new common law programs.<sup>2</sup>

The Task Force report also recommends that the Federation establish a committee to implement its report and recommendations. The Task Force recommendations are set out in **Appendix 1**.<sup>3</sup>

All law societies in Canada approved the Task Force report and recommendations between December 2009 and March 2010. The Federation's model resolution, which law societies adapted to their individual use, contained a provision that the appointed

<sup>2</sup> "New common law programs" could include both those that are developed within a university setting and those that are not. "New common law programs" also includes those relating to a yet to be established Canadian law school and proposed new programs in established Canadian schools, including civil law schools proposing to establish common law programs.

<sup>3</sup> The Task Force report is available at [www.flsc.ca/\\_documents/Common-Law-Degree-Report-C.pdf](http://www.flsc.ca/_documents/Common-Law-Degree-Report-C.pdf).

implementation committee include appropriate representation from Canadian law schools.

In May 2010, a Federation working group reported to Federation Council with recommendations for the composition, mandate and reporting deadline of the Federation's Common Law Degree Implementation Committee (the Committee). Council approved the Working Group report, which is set out at **Appendix 2**. The Working Group report reflects the importance law societies place on including law school representatives on the Committee. It specifies two Law Deans as members. In addition, another member of the Committee is a law professor who is also a former law school Dean.

The members of the Committee are: Tom Conway (Chair), Professor Joost Blom, Dean Philip Bryden, John Campion, John Hunter, Dean Mayo Moran, Don Thompson, and Catherine Walker. The Managing Director of the NCA, Deborah Wolfe, also attended and participated in the meetings, as recommended in the Working Group report. Sophia Spurdakos and Alan Treleaven are staff to the Committee.

The Committee's mandate is

- (a) to determine how compliance with Section C (Approved Canadian Law Degree)<sup>4</sup> of the recommendations of the Task Force on the Canadian Common Law Degree will be measured. Its mandate may include clarifying or elaborating on the recommendations, where appropriate, to ensure their effective implementation, but will not include altering the substance or purpose of them; and
- (b) to make recommendations as to the establishment of a monitoring body to assume ongoing responsibility for compliance measurement, including an evaluation of the compliance measurement program and the required competencies, and for maintaining the Federation of Law Societies of Canada's ("the Federation") relationship with Canadian law schools. The Implementation Committee should consider any role the National Committee on Accreditation might play in that monitoring process.

This report fulfills the Committee's responsibility to present its final report to Federation Council no later than September 2011. In accordance with its mandate, the Committee has made recommendations on implementation and on the establishment of a "compliance body." The report discusses the nature, structure and composition of that body with

<sup>4</sup> Section C incorporates, by reference, the recommendations in Sections A and B. See Appendix 1.

a formal recommendation (Recommendation 15) that it be established and called the Canadian Common Law Program Approval Committee (the Approval Committee).<sup>5</sup>

Where appropriate, the Committee has clarified or elaborated on the Task Force recommendations to ensure their effective implementation, but has not altered the substance or purpose of them.

The Committee's goal has been to ensure that:

- the intent of the Task Force recommendations and the manner in which they are to be implemented are clear to:
  - o law schools that will meet the national requirement and report on their programs annually,
  - o the Approval Committee,
  - o the NCA, which will apply the requirements to applicants seeking Certificates of Qualification,
  - o law societies, and
  - o the public;
- the implementation structure is clear, effective and appropriately balanced in its effect on law schools, law societies, the NCA and the Approval Committee;
- the implementation approach reflects the principle underlying the Task Force's recommendations that its report should not interfere with innovation and flexibility in law school education; and
- the approach to implementation was developed following consultation with and input from law schools, beyond membership of two Law Deans and a former Law Dean on the Committee.

The Committee has benefited from the invaluable assistance and input of the Council of Canadian Law Deans (the CCLD). The CCLD established a Law Deans' Working Group consisting of Dean Mary Anne Bobinski (Faculty of Law - University of British Columbia), Dean Kim Brooks (Schulich School of Law at Dalhousie) and Dean Lorne Sossin (Osgoode Hall Law School) to provide initial comments on a variety of proposals the Committee developed during the course of its analysis. This allowed for refinement of proposals and

<sup>5</sup> See Recommendations 15 – 20 and discussion beginning at page 39.



better understanding of the Deans' perspectives. The Committee also provided the CCLD with its proposal respecting the ethics and professionalism course requirement, the draft template for the annual report that Law Deans will complete and a memorandum outlining the Committee's proposals for implementation of the Task Force recommendations. The CCLD invited the Committee Chair to attend its meeting in Windsor, Ontario on May 6, 2011, which he did. The CCLD's input assisted in the refinement of the law school reporting process and annual report.

Because the Task Force's report includes a recommendation that graduates seeking to enter law society admission programs must have completed a course in ethics and professionalism at law school, the Committee invited law schools to provide input on implementation of the recommendation. An Ethics Professors' Working Group (EPWG) consisting of Adam Dodek (Faculty of Law - University of Ottawa), Jocelyn Downie (Schulich School of Law at Dalhousie), Trevor Farrow (Osgoode Hall Law School) and John Law (Faculty of Law - University of Alberta)<sup>6</sup>, met with members of the Committee to provide input and assistance in the development of the recommended approach.

The diversity of perspectives among the members of the Committee, the collaborative approach of its discussions and its external consultations have assisted the development of recommendations that will facilitate the effective implementation of the national requirement. The Committee has every confidence that the productive conversations about legal education that have occurred during this process will continue in the future, in the public interest.

## THE COMPETENCIES

The approved Task Force recommendations specify minimum competencies for entry to law society admission programs.<sup>7</sup> With the exception of the competency respecting "ethics and professionalism," which must be satisfied in "a course dedicated to those subjects and addressing the required competencies," each law school may determine how its students

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<sup>6</sup> The EPWG has acted as a liaison to the larger group of ethics and professionalism professors across the country.

<sup>7</sup> See Section B of Appendix 1.



satisfy the competency requirements. As the Task Force notes, “this allows law schools the flexibility to address these competencies in the manner that best meets their academic objectives, while at the same time meeting the regulators’ requirements that will allow their graduates to enter law society admission programs.”<sup>8</sup>

The required competencies are part of “an academic and professional legal education that will prepare the student for entry to a law society admission program.” Law schools comply with specified requirements respecting the academic program and learning resources.

The requirements leave significant additional freedom within law school curricula and structure for students to develop their particular interests and for law schools to pursue innovative teaching and research.

In examining the competencies, the Committee’s goal has been:

- to determine whether any of the competencies requires clarification or elaboration to facilitate implementation and compliance; and
- to provide such direction in this regard as is necessary.

While the Committee is satisfied that the competencies are generally clear and do not require clarification, it has identified some instances where clarification or elaboration would be useful not only to law schools whose students must meet them, but also to the NCA, which must assess the qualifications of individuals with legal education and professional experience obtained outside of Canada, or in a civil law program in Canada, who wish to be admitted to a law society in a common law jurisdiction in Canada.

The Committee has also determined a number of instances where examples of how a competency could be satisfied would be useful and has included these. The Committee emphasizes that these are examples only and do not limit or circumscribe a law school’s ability to determine how its students satisfy the competency.

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<sup>8</sup> Task Force Report, p. 31.

For ease of understanding, the Task Force's competency requirements are set out in **TABLE A**, with the Committee's recommendations for clarification, elaboration or direction set out in an accompanying box. The ethics and professionalism competency is dealt with separately following the Table.

## **TABLE A** **Competency Requirements**

### *B. Competency Requirements*

#### *1. Skills Competencies*

*The applicant must have demonstrated the following competencies:*

##### *1.1 Problem-Solving*

*In solving legal problems, the applicant must have demonstrated the ability to,*

- *identify relevant facts;*
- *identify and evaluate the appropriateness of alternatives for resolution of the issue or dispute.*
- *analyze the results of research;*
- *apply the law to the facts; and*
- *identify and evaluate the appropriateness of alternatives for resolution of the issue or dispute.*

No clarification necessary.
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##### *1.2 Legal Research*

*The applicant must have demonstrated the ability to,*

- *identify legal issues;*
- *select sources and methods and conduct legal research relevant to Canadian law;*

Given that the skills addressed in this competency relate to legal research, the reference to "Canadian law" should be read in that context. It should not be seen as referring to substantive Canadian law, but rather to the types of legal
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research resources that reflect the Canadian context (e.g. precedent-based research). This is relevant to the assessment of the qualifications of individuals with legal education and professional experience obtained outside of Canada or in a civil law program in Canada, who wish to be admitted to a law society in a common law jurisdiction in Canada and is also applicable to those educated in common law Canadian law schools.

- *use techniques of legal reasoning and argument, such as case analysis and statutory interpretation, to analyze legal issues;*
- *identify, interpret and apply results of research; and*
- *effectively communicate the results of research.*

No clarification necessary.

### 1.3 Oral and Written Legal Communication

*The applicant must have demonstrated the ability to,*

- *communicate clearly in the English or French language;*
- *identify the purpose of the proposed communication;*
- *use correct grammar, spelling and language suitable to the purpose of the communication and for its intended audience; and*
- *effectively formulate and present well reasoned and accurate legal argument, analysis, advice or submissions.*

No clarification necessary.

## 2. Ethics and Professionalism

*The applicant must have demonstrated an awareness and understanding of the ethical requirements for the practice of law in Canada, including,*

- a. *the duty to communicate with civility;*
- b. *the ability to identify and address ethical dilemmas in a legal context;*
- c. *familiarity with the general principles of ethics and professionalism applying to the practice of law in Canada, including those related to,*

- i. *circumstances that give rise to ethical problems;*
- ii. *the fiduciary nature of the lawyer's relationship with the client;*
- iii. *conflicts of interest;*
- iv. *duties to the administration of justice;*
- v. *duties relating to confidentiality and disclosure;*
- vi. *an awareness of the importance of professionalism in dealing with clients, other counsel, judges, court staff and members of the public; and*
- vii. *the importance and value of serving and promoting the public interest in the administration of justice.*

Discussed separately below.

### 3. *Substantive Legal Knowledge*

*The applicant must have undertaken a sufficiently comprehensive program of study to obtain an understanding of the complexity of the law and the interrelationship between different areas of legal knowledge.*

The Task Force recommendations specify minimum competencies required for entry to law society admission programs. The Task Force report recognizes that legal education in Canada is an enriched learning environment and agrees that it provides both a liberal legal education and a professional education. In law school students begin to "think like lawyers," examine law critically and address deficiencies in legal systems and principles. The competencies that are included in the national requirement are therefore situated in this broader context.

This preamble to the section 3 competencies seeks Deans' descriptions of how their school offers "a sufficiently comprehensive program of study" to enable graduates to "obtain an understanding of the complexity of the law and the interrelationship between different areas of legal knowledge." Each Dean will be asked to address this in the annual report to the Approval Committee.

*In the course of this program of study the applicant must have demonstrated a general understanding of the core legal concepts applicable to the practice of law in Canada, including as a minimum the following areas:*

### 3.1 Foundations of Law

*The applicant must have an understanding of the foundations of law, including,*

- *principles of common law and equity;*

This competency could be addressed as part of courses in private law. It is open to schools to address this competency in other ways.

- *the process of statutory construction and analysis; and*

This competency could be addressed by any number of courses that are statute based (e.g. taxation, corporate, administrative, criminal, civil procedure, family, labour, etc.). It is open to schools to address this competency in other ways.

- *the administration of the law in Canada.*

This competency is directed at understanding the organization of the courts and tribunals **in Canada**, including appeal processes.

### 3.2 Public Law of Canada

*The applicant must have an understanding of the core principles of public law in Canada, including,*

The modifier “core” before “principles” is unnecessary and will not appear on the annual report to the Approval Committee law schools complete.

This section 3.2 requirement is fully addressed by the enumerated competencies below. All competencies under section 3.2 are intended to address public law **in Canada**.

- *the constitutional law of Canada, including federalism and the distribution of legislative powers, the Charter of Rights and Freedoms, human rights principles and the rights of Aboriginal peoples of Canada;*

The part of this competency requirement that states “the constitutional law of Canada, including...the rights of Aboriginal peoples of Canada” could be addressed in a number of ways, including, for example, in a constitutional law

course or as part of a property law course that addresses Aboriginal rights. It is open to schools to address this competency in other ways.

- *Canadian criminal law; and*

No clarification necessary.

- *the principles of Canadian administrative law.*

This competency contemplates the principles of **Canadian** administrative law. This competency could be addressed through a stand-alone administrative law course or through a course in which the subject matter is grounded in an administrative tribunal (e.g. labour/employment law, environmental law). It is open to schools to address this competency in other ways.

### 3.3 Private Law Principles

*The applicant must demonstrate an understanding of the foundational legal principles that apply to private relationships, including,*

The modifier “foundational legal” before “principles” is unnecessary and will not appear on the annual report to the Approval Committee law schools complete.

- *contracts, torts and property law; and*

No clarification necessary.

- *legal and fiduciary concepts in commercial relationships.*

This competency contemplates a conceptual overview of business organizations, including fiduciary relationships in a commercial context. It is open to schools to address this competency through a course in corporate law or in other ways.

### **Recommendation 1**

**The commentary set out in TABLE A regarding the competency requirements be approved.**

## Ethics and Professionalism Competency

The Task Force report places particular emphasis on the need for law school graduates who seek entry to law society admission programs to have an understanding of ethics and professionalism. It notes,

Ethics and professionalism lie at the core of the profession. The profession is both praised for adherence to ethical codes of conduct and vilified for egregious failures. Increasing evidence of external scrutiny of the profession in this area and internal professional debates about ethical failures point to the need for each lawyer to understand and reflect on the issues. In the Task Force's view, the earlier in a lawyer's education that inculcation in ethics and professionalism begins, the better.

The Task Force believes that more, not less, should be done in this area and that legal educators and law societies together should be identifying ways to ensure that law students, applicants for admission and lawyers engage in focused and frequent discussion of the issues. To ensure that law students receive this early, directed exposure the Task Force believes a stand-alone course is essential.<sup>9</sup>

In addition to setting out the components of the ethics and professionalism competency, the Task Force report recommends that this competency be acquired in a course dedicated to the subject and addressing the competencies. This is in contrast to the approach to all the other competencies in the national requirement in which the report recommends that it be left to law schools to determine how their students meet them. As the Task Force indicates, "ethics and professionalism lie at the core of the profession."

The unique approach the Task Force takes to this competency led the Committee to consult, as described above in the 'background' section to this report, to ensure that the Task Force's recommendations respecting ethics and professionalism are implemented as effectively as possible, in keeping with both the spirit and letter of the recommendations.

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<sup>9</sup> Task Force Report, p.35.



The Committee received invaluable input and assistance respecting both the implementation of the stand alone course requirement, which will be discussed later in this report, and on the language of the ethics and professionalism competency, which is discussed here.

In the course of its consultations the following points were drawn to the Committee's attention:

- The way in which the actual competency is stated in the Task Force report is more narrowly focused than the rest of the Task Force report on the topic appears to have intended. This is because the components of the competency, as originally worded, focus mainly on issues addressed in Rules of Professional Conduct, rather than also reflecting the greater Task Force goal that students understand and reflect on broader ethical and professionalism issues.
- Presenting the competencies as a "list" of components could have the unintended effect of freezing curricula at a point in time. Making it clear that the list is not exhaustive would minimize the concern.
- The Task Force's intent to recognize the importance of ethics and professionalism would be more effectively addressed if the implementation approach more accurately reflects that intent.

The Committee agrees with these points. While maintaining all the components of the ethics and professionalism competency set out in the Task Force's report, the Committee has added additional language that reflects the broader philosophy underlying the Task Force's reasons for placing special emphasis on professionalism and ethics in its report.

The ethics and professionalism competency described below is the point of departure for those who teach this subject. Its components do not constitute an exhaustive list that limits them to teaching only those components. It sets out the required minimum coverage only.

The proposed wording for the ethics and professionalism competency is set out in **TABLE B.**



## **TABLE B**

### **Ethics and Professionalism Competency**

#### **Ethics and Professionalism**

The applicant must have demonstrated an awareness and understanding of the ethical dimensions of the practice of law in Canada and an ability to identify and address ethical dilemmas in a legal context, which includes,

1. Knowledge of,
  - a. the relevant legislation, regulations, rules of professional conduct and common or case law and general principles of ethics and professionalism applying to the practice of law in Canada. This includes familiarity with,
    1. circumstances that give rise to ethical problems;
    2. the fiduciary nature of the lawyer's relationship with the client;
    3. conflicts of interest;
    4. the administration of justice;
    5. duties relating to confidentiality, lawyer-client privilege and disclosure;
    6. the importance of professionalism, including civility and integrity, in dealing with clients, other counsel, judges, court staff and the public; and
    7. the importance and value of serving and promoting the public interest in the administration of justice;
  - b. the nature and scope of a lawyer's duties including to clients, the courts, other legal professionals, law societies, and the public;
  - c. the range of legal responses to unethical conduct and professional incompetence; and
  - d. the different models concerning the roles of lawyers, the legal profession, and the legal system, including their role in the securing access to justice.
2. Skills to,
  - a. identify and make informed and reasoned decisions about ethical problems in practice; and
  - b. identify and engage in critical thinking about ethical issues in legal practice.



For the NCA's assistance in assessing the competencies of international students, the Committee makes one additional comment on the ethics and professionalism competency. The reference to "Canada" in the competency's preamble and in section 1(a) reflects the requirement that the graduate must have acquired the competency in a course of study that addresses the subject in the Canadian context. Presently, there is no requirement that NCA candidates satisfy this competency in the Canadian context. The Canadian context requirement will mean that in future more NCA candidates may be required to meet this competency than is currently the case. Given the Task Force's emphasis on the importance of this topic in its Canadian context, the Committee is of the view that the applicability of the competency in the NCA context is in the public interest and therefore appropriate.

For Canadian law schools that have previously allowed students to obtain a compulsory ethics credit during an international exchange program by taking an ethics course that addresses ethics in the law of the country governing the exchange program, such a credit would not be eligible for the ethics and professionalism competency.

***Recommendation 2***

***The elaboration of the professionalism and ethics competency set out in TABLE B be approved.***

**APPROVED COMMON LAW DEGREE - ACADEMIC PROGRAM AND  
LEARNING RESOURCES**

The Task Force report specifies that for graduates of a Canadian law school to be eligible to enter a law society admission program their school must offer an academic program and learning resources that comply with the national requirement.

The Task Force specifically avoids an overly prescriptive approach to the academic program, reflecting its underlying philosophy that law schools should be able to pursue an innovative and flexible pedagogical approach, in keeping with the goals and objectives of their individual programs, subject only to meeting certain minimum requirements for the purposes of entry of their graduates to law society admission programs.



The Task Force report states that,

wherever possible the institutional requirements set out in the national requirement for entry to law society admission programs should reflect current practice in Canadian law schools. This balances the regulatory objectives with law schools' desire to maintain flexibility of approach. By stating current practices as much as possible the Task Force leaves open the door for law schools to advise the Federation if current practices are no longer appropriate.<sup>10</sup>

The Committee has examined the Task Force's required components of the academic program and the learning resources and determined whether any of them require comment, clarification or elaboration to facilitate implementation.

For ease of understanding, the required components of the academic program are set out in **TABLE C** with the Committee's clarification, elaboration or direction set out in an accompanying box.

### **TABLE C** **Academic Program**

*The Federation will accept an LL.B. or J.D. degree from a Canadian law school as meeting the competency requirements if the law school offers an academic and professional legal education that will prepare the student for entry to a bar admission program and the law school meets the following criteria:*

*1. Academic Program*

- 1.1 The law school's academic program for the study of law consists of three academic years or its equivalent in course credits.*

The Committee provides three comments here for clarification and direction, based upon and following the Task Force's own approach.

1. In specifying "three academic years" the Task Force is referring to three full-time academic years. The Committee is advised that in law schools currently offering the common law degree the "equivalent in course credits" to three

<sup>10</sup>

Task Force Report, p. 39.

full-time academic years presumptively means 90 credit hours. The Task Force refers to this in its report.

The Committee adopts this clarification so that paragraph 1.1 of the Task Force recommendation should be clarified to read:

- 1.1 The law school's academic program for study of law consists of three full-time academic years or the equivalent in course credits, which, presumptively, is 90 course credits.
2. Many Canadian law schools offer joint degree programs in which students follow an integrated course of study with another related discipline, receiving a J.D. or LL.B. degree plus a degree from the other discipline. The typical joint degree program is four years, although some are three years. The Task Force discusses the joint degree in relation to the requirement set out in section 1.1 above:

In recent decades many Canadian law schools have introduced joint degree programs with related, but separate disciplines. The Task Force recognizes that interdisciplinary education is a rich and valuable part of law school education. Nothing in its recommendations should be interpreted to interfere with the capacity of law schools to offer such degrees. So long as the student has been engaged in a study of law for three years or its equivalent in course credits, and has acquired the competency requirements in so doing, joint degree programs should satisfy the national requirement. Law schools introducing major changes in their academic program, such as the introduction of a joint degree, should be encouraged to discuss them with the Federation to ensure that their graduates will continue to meet the competency requirements.<sup>11</sup>

For graduates of joint law degree programs to be eligible to enter law society admission programs their degrees will have to meet the national requirement, which includes, among other components, the required competencies and a requirement that the graduate of the joint degree program has followed an academic program for the study of law consisting of three full-time academic years or the equivalent in course credits, which, presumptively, is 90 course credits.

The term "an academic program for the study of law" is broad enough to encompass joint degree programs **provided that** the study of law is integrated with another discipline sufficiently related to law **and** the interwoven content is specifically designed to enhance and enrich the learning in law. The eligibility of the joint degree program to satisfy the national requirement may be easier to accomplish in a four-year joint degree than in a three-year one, particularly in view of the need to satisfy the required competencies, but it will be open to schools that wish to have their

<sup>11</sup> Task Force Report, p. 41.

joint degree programs meet the national requirement for purposes of entry of their graduates to law society admission programs to satisfy the Approval Committee that they do.

Schools will report annually on each joint degree program for which they seek approval for the purposes of entry of their graduates to law society admission programs. It is important to note that schools may choose to offer some joint degree programs for which they do not seek approval. The Federation website will list only those programs for which approval has been obtained.

3. Some Canadian law schools accept transfer students from law schools outside of Canada. Each school determines whether transfer students will be entitled to apply any of their credits from their education outside Canada toward the degree requirements of the Canadian law school. With the introduction of the competency requirements, some of which address the competency in the Canadian context (e.g. principles of Canadian administrative law) schools will need to ensure that any credits for courses taken outside of Canada toward a competency requirement that must address the subject in the Canadian context actually do so. Schools will also need to ensure that graduates of their programs who take part of their program at another institution, either through an exchange or letter of permission, meet the national requirement.

*1.2 The course of study consists primarily of in-person instruction and learning and/or instruction and learning that involves direct interaction between instructor and students.*

Currently, Canadian law schools deliver most education through face-to-face instruction conducted with the instructor and students in the same classroom. At the same time, most Canadian law schools now supplement that face-to-face instruction to at least some extent by the use of a variety of instructional methods mediated by information technology. These methods can include electronic course management systems such as TWEN or Moodle or synchronous instruction via video-conference. Nevertheless, it is still the case that asynchronous on-line learning or traditional distance education is rarely employed in Canadian law school courses as the sole instructional method.

In its report, the Task Force recognizes that technology is having a significant impact on the delivery of legal information and legal education, and that innovation and experimentation are to be expected and encouraged. At the same time its recommendation focuses on the importance of face-to-face inter-personal connections in law school. Its report notes,

Technological advances for delivering information are moving rapidly. The Task Force does not wish to inhibit innovative delivery or experimentation

in this area. At the same time, however, it is of the view that Canadian law school education should, as it is does today, provide a primarily in-person educational experience and/or one in which there is direct interaction between instructor and students. The use of the term "primarily" in the Task Force's recommendation is intended to allow for innovation and experimentation.<sup>12</sup>

From the Task Force's perspective, the in-person learning requirement is directed at the skills and abilities that graduates who seek entry to a law society admission program should have. The practice of law is an interpersonal endeavour. Problems are solved through interactions with others: clients, lawyers, witnesses, office staff, judges, and others. Some of these interactions may be written, but many of them are oral, and involve understanding how to deal with a person face-to-face. In particular, lawyers typically discuss legal problems with other lawyers. They need to understand how to do that. Those interactions involve legal problem solving and oral persuasion. The law school experience – involving face-to-face interactions with instructors as well as students – models that experience.

The Committee is satisfied that the Task Force's recommendation means that currently Canadian law schools are to deliver their programs mainly through in-person delivery methods. The clause "instruction and learning that involves direct interaction between instructor and students" modifies "in-person." This clause was inserted to address and permit some synchronous learning such as live videoconferencing, which is already being used to supplement the face-to-face in-person instruction that makes up most of law school education in Canada.

In the Committee's view the Task Force's reference to "primarily" in-person instruction should be considered in the context of:

- existing practices respecting face-to-face instruction in Canadian law schools;
- the extent to which some degree of alternative delivery is currently permitted; and
- the importance of allowing room for innovation in delivery approaches.

Given this context, the Committee recommends interpreting "primarily" in-person to mean that presumptively a minimum of two-thirds of instruction over the course of the law degree program must be face-to-face instruction conducted with the instructor and students in the same classroom.

The Committee recognizes the ongoing value of law schools developing innovative and dynamic delivery approaches. As legal education and delivery

<sup>12</sup> Task Force report, p. 41.

methods continue to evolve the re-examination of this requirement will be appropriate and advisable. It is beyond the scope of the Committee's mandate to undertake such an examination, but it recommends that the Federation broaden the discussion by engaging those with expertise in education delivery techniques, delivery of legal education and professional regulation to consider the issues.

*1.3 Holders of the degree have met the competency requirements.*

This refers to the competency requirements set out in section B of the Task Force recommendations as clarified in this report, particularly in **TABLES A and B**.

*1.4 The academic program includes instruction in ethics and professionalism in a course dedicated to those subjects and addressing the required competencies.*

The Task Force report emphasizes the importance of dedicated instruction in ethics and professionalism, beginning in law school. Although for all other competencies the Task Force recommends that it be left to law schools to determine how their students meet them, it specifies that respecting ethics and professionalism students must have acquired the competencies in "a course dedicated to those subjects and addressing the required competencies" defined in the Task Force report.

**TABLE B** reflects the clarification and elaboration of the ethics and professionalism competency that the Committee recommends.

As a further part of its mandate to implement the Task Force recommendations the Committee is clarifying what will satisfy the requirement for an ethics and professionalism "course." This is essential to effective implementation of the requirement so that:

- those who teach this subject matter understand the parameters of the requirement;
- Law Deans are in a position to address any resource implications and are able to report compliance;
- the Approval Committee is able to determine compliance; and
- the NCA is able to assess the qualifications of individuals with legal education and experience obtained outside Canada or in civil law degree programs in Canada who wish to be admitted to a law society in a common law jurisdiction in Canada.



The substantive goal of the Task Force recommendation is that serious attention be paid to ethics and professionalism in a way that is demonstrable and dedicated. At the same time it does not intend the language of the requirement to hamstring or interfere with innovative delivery. Indeed, from the Task Force's perspective, which the Committee echoes, the innovation in teaching that has been growing in a number of schools is to be encouraged.

Drawing on the valuable consultations it has had on this subject, the Committee is clarifying the recommendation in a manner that reflects the importance of the subject and the Federation's requirements, while allowing law schools to be innovative. Having considered the input it received and reflecting on the context of the Task Force's goals and recommendations on this subject, the Committee is of the view that to allow the best development of teaching in this area, the term "course" should be interpreted to mean "a demonstrable course of study" whose goal is to develop in students the ability to think about and analyze ethical and professionalism issues in the legal profession. The approved competencies would be taught as part of the demonstrable course of study, allowing freedom to go beyond those competencies to address additional content.

The "course of study" could be developed in any number of ways, for example as a single course or within an ethics curriculum taught over a number of years as units demonstrably devoted to ethics, but situated within other courses. The learning could build on the previous year's unit reflecting the increasing sophistication of the student over time.

The "demonstrable" language is meant to ensure that the dedicated approach to ethics education that the Task Force identifies as a priority can be measured.

### ***Recommendation 3***

***"Course" relating to ethics and professionalism instruction be interpreted to allow for both:***

- ***a single stand alone course devoted to ethics and professionalism that at a minimum addresses the required competencies set out in TABLE B, and***
- ***a demonstrable course of study devoted to ethics and professionalism that could be delivered,***

***(1) within a single course that addresses other topics, provided there is a dedicated unit on ethics and professionalism that at a minimum addresses the required competencies set out in TABLE B; and/or***



***(2) in multiple years within courses that address other topics, provided there are dedicated units on ethics and professionalism that at a minimum address the required competencies set out in TABLE B.***

While there are various criteria that could be applied to determine whether a school has met the requirement for a demonstrable course of study, the Committee is reluctant to be overly prescriptive, particularly since the Federation requirement for a "course" in this subject area is a new direction.

Accordingly, the Committee has concluded that articulating a minimum number of required hours would allow for certainty, while leaving significant freedom for schools in developing the course of study.

The Committee discussed 36 hours as the appropriate number of hours for the "course" requirement. Because, however, the ethics and professionalism course requirement is a new one that may have resource and staffing implications for some schools it is of the view that there should be some flexibility respecting this component.

The Committee recommends that the requirement be satisfied if a graduate has taken a "course" (as described above) that is a minimum of 24 hours. The Committee is also of the view, however, that the ultimate goal is for the requirement to be 36 hours, the implementation of this goal to be determined at a future date to be discussed with the law schools before actually being implemented.

As discussed, the required 24 hours could be acquired in a single course or in a course of study that spans two or three years of law school (e.g. 12 hours a year for 2 years, 8 hours a year over three years) or any other way the law school determines provided it satisfies the requirement for a "demonstrable course of study."

***Recommendation 4***

***By 2015, graduates seeking entry to law society admission programs be required to have taken a demonstrable course of study dedicated to ethics and professionalism that is a minimum of 24 hours, is formally assessed and, at a minimum, addresses the required competences set out in TABLE B.***

1.5 Subject to special circumstances, the admission requirements for the law school include, at a minimum, successful completion of two years of postsecondary education at a recognized university or CEGEP.

No clarification necessary.

**Recommendation 5**

***The commentary and direction set out in TABLE C regarding the approved common law degree academic program requirements be approved.***

**Learning Resources**

In developing its recommendations respecting learning resources the Task Force notes the following:

The Task Force is reluctant to define in great detail the form law school must take, particularly given the role of provincial governments in approving degree granting institutions and the complex university-based decision making process that addresses many of the law schools' physical components. The Task Force does, however, recognize that there are certain necessities for an effective legal education whose graduates can serve the public. In the Task Force's view the most important consideration is that the law school be adequately resourced to fulfill its educational mission. At a time when all public resources are subject to financial pressures, the Task Force is reluctant to be too prescriptive in its recommendations, but has concluded that there are certain irreducible minima that must be maintained if law societies are to accept the law degree as evidence that the competency requirements are being achieved.<sup>13</sup>

An environment that supports learning is critical to the development of meaningful legal education. It may be easier to assess what is sufficient with respect to already established schools than with respect to new applicants for program recognition. At the same time, it is not appropriate to set a standard based on the resources that long-established schools have that would be impossible for a new school to meet.

It is necessary to provide additional guidance under "learning resources" to assist law schools to know what information they are expected to report on an annual basis. This will ensure consistency of information across schools and across years.

The Committee agrees with the Task Force's approach to resources that recognizes a connection between the resource requirements and a school's particular objectives. This allows for different types of law schools to exist that require different levels of resources. At the same time, however, the school's objectives and resources must be sufficient to meet the national requirement.

<sup>13</sup> Task Force Report. p.42.

The Committee has consulted with the CCLD concerning the type of information that would elicit a reasonable picture of the learning resources to which the Task Force recommendations are directed. In addition, it has considered the approaches that other professional regulators take on this issue. Its goal is that law schools provide sufficient information to allow the Approval Committee to understand the learning resources context within which the national requirement is being met in each school.

To ensure that the information sought from law schools is both relevant and necessary it would be useful to use an iterative process to develop and refine the information to be provided under the learning resources section of the annual report. As the national requirement will not come into effect until 2015, the reports that law schools will file in 2012, 2013 and 2014 will be progress reports. The Committee considers these years as providing the opportunity for law schools and the Approval Committee to review the initial approach to the learning resources reporting and develop a standardized approach that will provide the most appropriate information and be applied as consistently as possible to all degree programs, whether established or new.

The guidance set out is intended for the responses in the 2012 report. Thereafter the Approval Committee should have the authority to adapt and change the required information as it considers appropriate flowing from the iterative approach.

For ease of understanding the required components of the learning resources are set out in **TABLE D** with the Committee's clarification, elaboration or direction set out in an accompanying box.

## **TABLE D**

### **Learning Resources**

- 2.1 The law school is adequately resourced to enable it to meet its objectives, and in particular, has appropriate numbers of properly qualified academic staff to meet the needs of the academic program.*



The Committee recommends that the following information be provided in this section:

- General description of numbers of full-time faculty, contract instructors, sessional lecturers and support staff, including significant changes from previous year.
- General description of full-time faculty, contract instructor and sessional lecturer qualifications.
- Number of full-time equivalent students in each program.
- General description of student support services.
- Overview of law school operating budget for the academic program from all sources, and sources of funding.

2.2 *The law school has adequate physical resources for both faculty and students to permit effective student learning.*

The Committee recommends that the following information be provided in this section:

- Overall description of law school space, including whether the space is adequate for the law program(s), any space challenges faced by the school and their impact on the program and proposed or planned solutions.
- Description of space available to the law school to carry out the academic program offered, including seminar rooms, quiet study space for students, etc
- Description of accessibility of the current space.

2.3 *The law school has adequate information and communication technology to support its academic program.*

The Committee recommends that the following information be provided in this section:

- Description of what IT services are provided at the law school.
- Description of dedicated or shared staff and level of support provided to faculty, staff and students.

2.4 *The law school maintains a law library in electronic and/or paper form that provides services and collections sufficient in quality and quantity to permit the law school to foster and attain its teaching, learning and research objectives.*

(A useful reference for this requirement is the Canadian Academic Law Library Directors Association's standards.)

The Implementation Committee recommends that the following information be provided in this section:

- Overview of library staff complement, qualifications and reporting structure.
- Overview of library facilities and description of collection and collections policies.
- Overview of library acquisitions budget.
- General description of support services available to faculty, students and other library users.

**Recommendation 6**

***The commentary and direction set out in TABLE D regarding the approved common law degree required learning resources be approved.***

## MEASURING COMPLIANCE

In considering an appropriate national compliance mechanism the Task Force states:

The requirement for a national compliance mechanism does not... necessitate an intrusive or onerous approach. Existing Canadian law schools offer a high standard of education and the Task Force is satisfied that compliance with the competency requirements will not pose difficulty for any of them. At the same time, however, the Task Force does recognize that the creation of requirements represents a change in current practices and any compliance mechanism, however modest, will require some adjustment. It also recognizes that the recommendation for a stand-alone course relating to ethics and professionalism and the requirements to address competencies may require adjustment by some law schools.

The Task Force recommends that the compliance mechanism for law schools should be a standardized annual report that each law school Dean completes and submits to the Federation or the body it designates to perform this function.

In the annual report the Dean would confirm that the law school has conformed to the academic program and the learning resources requirements and would explain how the program of study ensures that each graduate of the law school has met the competency requirements.<sup>14</sup>

<sup>14</sup> Task Force Report, pp. 43-44.

Among other tasks the Task Force report recommends this Committee undertake are the development of “the form and substance of the standardized annual law school report” and a mechanism to address non-compliance.

In developing its recommendations for the compliance mechanism the Committee has been guided by the Task Force’s views and has addressed the following issues:

- Compliance Models
- Form and Content of the Standardized Annual Report
- Compliance Process
- Publication of the reports

## COMPLIANCE MODELS

The Committee recommends that law schools be entitled to approach compliance using two possible models:

- Program Approval Model
- Individual Student Approval Model

### Program Approval Model

Law schools in Canada offer a variety of programs, including the traditional three full-time academic years or equivalent in course credits (presumptively 90 credits) J.D. or LL.B. program and joint degree programs, discussed above.<sup>15</sup>

A law school that applies the Program Approval Model to a particular program will require that each graduate of that program meet the national requirement for entry to law society admission programs. These law schools will not permit students in these programs to have the option to graduate without having met the competency requirements.

In the annual report on these programs the Dean will describe the process the school follows to determine that graduates in each of these programs meet the competency

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<sup>15</sup> Law schools also offer LL.M. programs that are not relevant to the discussion here.

requirements, in accordance with the national requirement.<sup>16</sup>

In schools that apply the Program Approval Model to a given program, graduates from approved programs will by definition have met the competency requirements. In granting the degree the school will be confirming this.

Schools that apply the Program Approval Model, generally, may also have joint degree programs for which they do not seek approval. The Individual Student Approval Model may be relevant to these programs. The Federation website will list all the joint degree programs for which these schools have program approval.

### **Individual Student Approval Model**

Traditionally, there are law school graduates who choose not to be licensed to practise law. There are myriad career paths for which a J.D. or LL.B. degree is invaluable, but for which a license to practise is unnecessary. Although the required competencies in the national requirement have been designed to allow for ample additional opportunity for students to pursue their academic and intellectual interests in law school, it is possible that some students who do not want to be licensed to practise law would prefer not to satisfy all the required competencies. The Individual Student Approval Model will allow for this approach.

The Committee respects law schools' right to foster this academic path for their students, which may be in keeping with the school's objectives and mandate. Its only concern is that law societies be in a position to easily verify whether graduates from those programs, who do seek entry to law society admission programs, have met the required competencies.

If a school chooses the Program Approval Model for a given program, by definition every student granted a J.D. or LL.B. degree in an approved program will have met the competencies. If a school chooses the Individual Student Approval Model for a given program it will be necessary for individual transcripts for each graduate to indicate whether

<sup>16</sup> As part of their existing internal processes law schools already conduct a "degree audit" for each student to ensure he or she has met all the program requirements necessary to graduate, including having met the school's required number of credit hours and fulfilled its compulsory courses or other requirements. Where a school is following the Program Approval Model for a given program, this degree audit process will also include a determination that each student will have met the Federation's competency requirements upon graduation.



he or she has met the national requirement.

A graduate who has not met the national requirement and subsequently wishes to enter a law society admission program can fulfill the missing competencies through the NCA by obtaining a Certificate of Qualification. It will be necessary for that graduate to provide the NCA with an official document from its degree granting institution setting out which competencies must still be fulfilled.

***Recommendation 7***

***Law schools be entitled to comply with the national requirement by using the Program Approval Model or the Individual Student Approval Model for a given program, including joint degree programs.***

***Recommendation 8***

***A graduate from a school applying the Individual Student Approval Model to a given program be eligible for entry to law society admission programs if he or she provides an official transcript from the degree granting institution certifying that he or she has met the national requirement for entry to law society admission programs.***

***Recommendation 9***

***A graduate who has not met the national requirement who subsequently seeks entry to a law society admission program be required to obtain first a Certificate of Qualification from the NCA.***

***Recommendation 10***

***The Federation website identify whether schools apply the Program Approval Model or the Individual Student Approval Model to a given program.***

## FORM AND CONTENT OF THE STANDARDIZED ANNUAL REPORT

The standardized annual report is the mechanism by which a law school will report compliance with the national requirement.

A standardized annual report:

- provides a template by which the Approval Committee will determine compliance with the national requirement;
- addresses each of the components of the national requirement with sufficient information and supporting documentation to allow compliance to be determined;
- enables a law school to report compliance in a transparent and efficient way;
- identifies the degree programs for which a school seeks approval for entry of graduates to law society admission programs and demonstrates how each program meets the requirements;
- identifies law school programs as following the Program Approval Model or the Individual Student Approval Model;
- provides overview information on the law school to situate the report in the context of the school's objectives and approach;
- documents changes to individual law school programs. Each year each law school report will comment on changes to any previously approved programs and the effective date of such changes. With annual reporting it will be essential that any changes to previously approved programs are identified and also approved. Schools will be encouraged to discuss proposed changes with the Approval Committee before they are implemented to ensure they will meet the national requirement; and
- documents the application of the national requirement.

The Committee has developed a draft form for the standardized annual report that addresses these purposes. The draft form, which was provided to the CCLD, is set out at **Appendix 3.**



The draft form is a living document that will evolve over the years as law schools and the Approval Committee seek to ensure its continued relevance and effectiveness. The Approval Committee should be authorized to make any changes, revisions or additions to the form as it determines necessary so long as the changes, revisions or additions conform to the approved national requirement and reflect the purposes described above.

**Recommendation 11**

***The Canadian Common Law Program Approval Committee (the Approval Committee) be authorized to make any changes, revisions or additions to the standardized annual report form set out in Appendix 3 as it determines necessary, provided the changes, revisions or additions conform to the national requirement and reflect the purposes as described in this report.***

## **COMPLIANCE PROCESS**

### **a) Existing Canadian Common Law Programs**

The national requirement applies to graduates from Canadian common law schools beginning in 2015 and annually thereafter.

Programs whose students graduate in 2012, 2013 and 2014 will continue to be recognized under the current processes and are not subject to the national requirement. Law societies will continue to accept 2012, 2013 and 2014 Canadian common law school graduates into their admissions programs on the pre-national requirement criteria.

The annual report on their programs that law schools file in 2012, 2013 and 2014, will, therefore, be progress reports leading to determination of compliance in 2015. Reports submitted in 2012, 2013 and 2014 will describe the program actually followed by the students to the date of the report, as well as reporting on plans for the program to 2015 directed at meeting the national requirement. The Approval Committee will provide feedback to schools on their progress towards meeting the national requirement for 2015.

From 2015 and annually thereafter the annual reports will report on the program the graduates of that year will have completed. The Approval Committee will determine compliance with the national requirement.

It is expected that, typically, a program approved for graduates of 2015 will continue to be approved thereafter, unless there are significant changes to the program in the areas subject to the national requirement. In such cases, the Approval Committee will undertake the inquiry necessary to ensure that the program continues to meet the national requirement.

#### **b) New Canadian Common Law Programs**

Where a new program is being proposed, either by an established Canadian law school that already offers J.D. /LL.B. programs and wishes to add additional programs or by a Canadian institution that does not yet offer any J.D. /LL.B. programs but seeks to do so,<sup>17</sup> the school will go through a two stage process. The first stage is the consideration of the proposal for a new program. That proposal will include a plan for implementing the new program, in which, typically, parts of the program are put in place over time.

The second stage begins once the proposal and plan have been approved, and implementation is underway. During this second stage, the school will report annually on the implementation of the plan, using a modified version of the annual report.

**TABLE E** sets out the Committee's recommended compliance process respecting new and existing programs to determine compliance with the national requirement.

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<sup>17</sup> This would also include a Canadian institution already offering a civil law degree that seeks to offer a J.D. /LL.B.

## TABLE E

### Compliance Process

#### a) Existing Canadian Common Law Programs

1. Upon receipt of a law school's completed annual report, the Approval Committee reviews it and any supporting documents in accordance with a specified timeline, a sample of which is set out in **Appendix 4**.<sup>18</sup>
2. The Approval Committee determines compliance with the national requirement and provides a draft report to the law school, setting out the Committee's conclusions and the basis for those conclusions. The law school is invited to provide comments on the draft report.
3. If the Approval Committee is satisfied that the school's program(s) meets the national requirement, the Approval Committee's draft report is finalized and provided to the law school and posted on the Federation website.
4. If the Approval Committee is of the view that the annual report raises issues regarding compliance, its draft report identifies the issues using one or more of the following rating categories:

- o **Deficiency** - indicates non-compliance with one or more requirements. If a "deficiency" has been identified and the school and the Approval Committee cannot agree on how to address it, the Approval Committee issues its final report.  
  
The compliance process will be an iterative one, the goal of which is to resolve deficiencies wherever possible before the Approval Committee issues a final report. The iterative process ensures that, if useful and directed, discussion toward a solution continues in an attempt to resolve the issues. It will be important to keep in mind, however, that there are annual time lines that must be met for issuing the Approval Committee's report. The Approval Committee ends discussion if it determines no further progress is being made.
- o **Concern** - indicates that although one or more requirements is currently met, it is at a minimum level that could deteriorate to become a deficiency. A school may note the "concern" without acting upon it, but it may be advisable for the school to resolve the concern, since it would be noted in the Approval Committee's final report. The iterative process described under "deficiency" could be used to resolve the "concern" if the parties agree.
- o **Comment** - this addresses a missing detail, a question, or a suggestion for more information. A school may take note of a "comment" without taking action upon it, but if it wishes to clarify or respond the Approval Committee can then re-issue its report reflecting this.

<sup>18</sup> **Appendix 4** sets out the sample timeline for the 2012 report. That report will be a progress report. The basic timeline would also apply in 2013 and 2014 and in 2015 and thereafter when the national requirement is in force.

5. As set out above, the school has the opportunity to respond to the draft report within a specified period of time. If the Approval Committee seeks more information or other action, the school may provide it or agree to undertake to do what is requested of it.
6. The conclusion of the Approval Committee's final report sets out one of the following ratings:
  - o "The law program has complied with the national requirements. *Approved.*"
  - o "The law program has mostly complied with the national requirements, except for deficiencies in the following areas... *Approved with notice to remedy specified areas of non-compliance.*"
 

The notice to remedy specifies that for the program to retain approved status the deficiencies must be addressed by the next reporting period, or in exceptional cases, by a subsequent reporting period.
  - o "The law program has not complied with the national requirement. *Not approved.*"
7. Only the final report of the Approval Committee will be public. All draft reports and ongoing discussions will not be public. The progress reports prepared in 2012, 2013 and 2014 will also not be public.

**b) New Canadian Common Law Programs**

**Proposal Stage**

8. Using the annual report format, the school provides its proposal for a new program. The proposal includes a plan describing how and when the program will achieve each of the provisions of the national requirement. The proposal is to be provided before the school takes steps to commence the program.
9. The Approval Committee determines prospectively whether the proposal, including implementation plan, if implemented, would comply with the national requirement. It provides a draft report to the law school, setting out its conclusions and the basis for those conclusions. The law school is invited to provide comments on the draft report.
10. When the Approval Committee issues a draft report respecting a new program it may contain "comments," "concerns" and/or "deficiencies" for the proposed new law school program to address before the Approval Committee issues a final report, and the school may respond as set out above. As in the case of the compliance process for established programs the process will be an iterative one leading to the final report.

11. Approval for a new program will be prospective because the first students will not graduate from the program until a number of years in the future. Accordingly the ratings for such programs will be:
  - o "The proposal and implementation plan for a law program, if followed, will comply with the national requirement. *Preliminary Approval, subject to implementation of the program as proposed.*"
  - o The law program as proposed will not comply with the national requirement. *Not Approved.*"
12. Only the final report of the Approval Committee will be public. All draft reports and ongoing discussions will not be public.

### **Reporting Stage**

13. The process in paragraphs 1-7, modified to measure progress against the implementation plan, continues to be followed annually until the first graduates of the program are in their final year. Thereafter the process in paragraphs 1-7 applies, without modification.

The Approval Committee should be authorized to make any changes, revisions or additions to the reporting timeline as it determines necessary to ensure that the compliance process in **TABLE E** operates in an effective manner.

### ***Recommendation 12***

***The compliance process set out in TABLE E be approved.***

### ***Recommendation 13***

***The Approval Committee be authorized to make any changes, revisions or additions to the draft reporting timeline set out in Appendix 4 and any other reporting timelines as it determines necessary to ensure that the compliance process operates in an effective manner.***

## PUBLICATION OF REPORTS

Beginning in 2015 when the national requirement comes into effect and annually thereafter the Approval Committee's final reports will be public and posted on the Federation's website. These reports will set out the basis for the Approval Committee's findings respecting each law program for which approval is sought. This recommendation is subject to the proviso that any information subject to privacy provisions or other personal or confidential information will not appear in the public report.

The Federation website will also identify each school's programs that apply the Program Approval Model and those that apply the Individual Student Approval Model. This will be important information for law societies, the NCA and law students.

Because the national requirement does not come into effect until 2015, the reports in 2012, 2013 and 2014 will be progress reports and will not be public.

### ***Recommendation 14***

***Beginning in 2015 and annually thereafter the Approval Committee's final reports be public and posted on the Federation's website. These reports will set out the basis for the Approval Committee's findings respecting each law program for which approval is sought, provided that any information subject to privacy or other personal information will not appear in the public report. The Federation website will also identify each school's programs that apply the Program Approval Model and those that apply the Individual Student Approval Model.***

***To reflect that the national requirement does not come into effect until 2015, the progress reports in 2012, 2013 and 2014 not be public.***

## THE CANADIAN COMMON LAW PROGRAM APPROVAL COMMITTEE

As discussed above, the Committee recommends that the "monitoring body to assume ongoing responsibility for compliance measurement, including an evaluation of the compliance measurement program and the required competencies, and for maintaining



the Federation's relationship with Canadian law schools," be called the Canadian Common Law Program Approval Committee ("the Approval Committee"). The name identifies the committee's primary responsibility, but is not intended to limit the Approval Committee's role to this single area. To fulfill the Committee's mandate to make recommendations about the monitoring body this report addresses the following:

- Structure of the Approval Committee
- Jurisdiction and Mandate
- Committee Member Qualifications and Committee Composition
- Resourcing

## STRUCTURE OF THE APPROVAL COMMITTEE

Given that law societies have put in place a national requirement for entry to law society admission programs, it is logical that the Approval Committee be part of the Federation. As a national committee it will ensure a coherent approach to the implementation of the national requirement.

The Working Group report establishing the Committee directed that it consider the possible role of the NCA in the compliance process. While it may make sense in the future to bring the two bodies together, the Committee is of the view that it is important at this stage for the Approval Committee to be an entity structurally separate from the NCA. This will allow the national requirement compliance process to establish a unique profile that will be important, particularly in the early years of implementation.

In addition, the NCA has an established profile as the body that assesses the qualifications of individuals with legal education and professional experience obtained outside of Canada, or in a civil law program in Canada, who wish to be admitted to a law society in a common law jurisdiction in Canada. Its mandate and workload are already demanding. At this stage it should not be required to take on a new function.

The Approval Committee should be established and populated forthwith to ensure that it is in place to assess the first law school compliance reports that will be due in 2012.

### ***Recommendation 15***

***The Federation establish a new committee to be called the Canadian Common Law Program Approval Committee (the Approval Committee).***

## JURISDICTION AND MANDATE

The creation of the Approval Committee offers an opportunity to go beyond the required compliance function that was only one of the Task Force's interests. While this compliance function must be a central responsibility, the Approval Committee also has an important role to play in enhancing the institutional relationship between law societies and law schools at a national level. As the Federation continues to develop national approaches to regulatory issues (e.g. national standards for admission to law societies, model codes of conduct etc.), there will be increasing opportunities to advance the discussion of the continuum of legal education. The Approval Committee should play a role in this discussion.

Given that recommended membership of the Approval Committee will include both Law Deans and law society regulators from across the country, the opportunity for a meaningful exchange of ideas is significant.

### ***Recommendation 16***

***The Approval Committee have the following mandate:***

- ***To determine law school program compliance with the national requirement for the purpose of entry of Canadian common law school graduates to Canadian law society admission programs. This will apply to the programs of established Canadian law schools and those of new Canadian law schools.***
- ***To make any changes, revisions or additions to the annual law school report as it determines necessary, provided the changes, revisions or additions conform to the approved national requirement and reflect the purposes described in this report.***
- ***To make any changes, revisions or additions to the draft reporting timeline set out in Appendix 4 and any other reporting timelines as it determines necessary to ensure that the compliance process operates in an effective manner.***
- ***To post its final annual reports on the Federation public website and to post information reports on the website, covering, at a minimum, the list of approved law school programs and issues of interest respecting the continuum of legal education.***

- *To participate in efforts and initiatives to enhance the institutional relationship between law societies and law schools at a national level. This could, for example, include efforts such as promoting a voluntary national collaboration on ethics and professionalism learning that would further enhance teaching, learning and practice in this area.*
- *To ensure appropriate training for its members.*
- *To undertake such other activities and make any necessary changes, additions or improvements to its processes as it determines necessary to ensure the effective implementation of the national requirement, provided these reflect the purposes described in this report.*

To ensure that the national requirement and the compliance process remain relevant and effective it is essential that the Federation, with the assistance of the Approval Committee, undertake regular evaluation of the national requirement and compliance process. The first evaluation should be completed at least by 2018 and no less frequently than every five years thereafter. The Federation should determine the timing and terms of reference for the evaluation and the reporting time line and the Approval Committee should ensure that the evaluation is completed and any recommendations made within the time line.

Nothing in this recommendation should be seen as precluding adjustments and changes to the compliance process in the years between evaluations, as set out in the mandate above. It should be open to the Approval Committee to recommend the timing of the evaluations.

#### ***Recommendation 17***

***The Federation, with the assistance of the Approval Committee, undertake regular evaluation of the national requirement and compliance process, the first to be completed at least by 2018 and no less frequently than every five years thereafter. The Federation should determine the timing and terms of reference for the evaluation and the reporting timeline and the Approval Committee should ensure that the evaluation is completed and any recommendations made within the timeline. Nothing in this recommendation should preclude adjustments and changes to the compliance process in the years between evaluations, as set out in the mandate in Recommendation 16. It should be open to the Approval Committee to recommend the timing of the evaluations.***

## COMMITTEE MEMBER QUALIFICATIONS AND COMMITTEE COMPOSITION

The Approval Committee's size should reflect both the need for a cross section of qualifications and the advantage of establishing a relatively small group to develop a coherent and expert approach to the issues.

The Committee has considered the qualifications that should be represented on the Approval Committee and the appointment process, size, member composition and term of service for this new body.

**TABLE F** contains the recommended qualifications.

### **TABLE F** **Qualifications for Members of the Approval Committee**

The members of the Approval Committee should be chosen with a view to competence and involvement with and understanding of the issues. The following qualifications should be represented on the Approval Committee, although there should not be a requirement that each member possess all the qualifications:

- Institutional knowledge concerning law societies and the Federation.
- Diversity of experience and perspective.
- Understanding of the regulation of lawyers and the operation of law societies.
- Experience with the regulation of lawyers and the operation of law societies and admission to the profession.
- Experience as a Law Dean or law school administrator (includes Associate, Assistant and Vice Deans).
- Bench experience.
- Bilingualism, coupled with a common law background.



All members of the Approval Committee should,

- have sufficient time to devote to the work;
- have sound judgment; and
- the ability and willingness to work cooperatively and in a team for the effective implementation of the national requirement.

**TABLE G** contains the recommended appointment process, size, member composition and term of service for the Approval Committee.

**TABLE G**  
**Approval Committee Composition**

- The Approval Committee will have seven members, to be appointed by the Federation Council as follows:
  - o Three current or former Law Deans or Law School Administrators (includes Associate, Assistant and Vice Deans), to be recommended by the CCLD.
  - o One Law Society CEO or designate of the CEO.
  - o Three lawyers with experience in law society regulation.
  - o The Chair of the Approval Committee will be one of the three lawyers or the CEO or staff designate, and will be named as Chair by the Federation Council.
  - o If none of the three lawyers is a Federation Council member, the Federation Council may appoint one of its members as a non-voting liaison.
  - o The Managing Director of the NCA will be invited to attend the meetings, without being a member or having a vote.
- Staff to the Approval Committee who attends the meetings will not be a member or have a vote.



- The term for each of the seven members will be three years, renewable once in the sole discretion of Federation Council. The term appointments will be made on a staggered basis, so that the terms of no more than three members will expire in any year. Some of the initial appointments may be made for shorter terms to enable the establishment of the staggered terms, as the Federation Council deems appropriate.

***Recommendation 18***

***The qualifications to be represented among the members of the Approval Committee set out in TABLE F be approved.***

***Recommendation 19***

***The appointment process, size, member composition and term of service for the Approval Committee set out in TABLE G be approved.***

## **RESOURCING**

The Committee is not in a position to state with certainty what the administrative and other resource needs of the Approval Committee will be. Clearly it will be essential to its effective operation that there be sufficient resources to support its work, including professional and support staff, office space and financial resources. It will be important that staffing be determined forthwith to support the Approval Committee.

The Committee recommends that law societies, through the Federation, fund the Approval Committee.

***Recommendation 20***

***The Approval Committee be resourced forthwith and with sufficient professional and support staff and financial resources to enable it to fulfil its mandate. Law societies, through the Federation, fund the Approval Committee.***



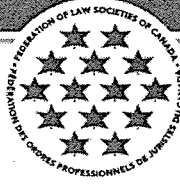
## CONCLUSION

This report and its recommendations are the blueprint for implementing the Task Force recommendations, providing the guidance and direction necessary for law schools, law societies, the NCA and the Approval Committee. The recommendations have been developed in a spirit of collaboration and with a view to establishing an implementation structure that is clear, effective and appropriately balanced in its effect on law schools, law societies, the NCA and the Approval Committee.

The recommendations recognize that the implementation process must be adaptable to changing conditions and realities in law societies and law schools. The composition of the Approval Committee ensures that discussion on the issues will include both law schools and law societies with the goal of ensuring the ongoing relevance of the national requirement in the public interest and recognizing the importance of Canadian law school education that is innovative and flexible.



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## **APPENDIX 1**

# **Recommendations from the Task Force on the Canadian Law Degree**

**October 2009**



## FEDERATION OF LAW SOCIETIES OF CANADA'S TASK FORCE ON THE CANADIAN COMMON LAW DEGREE

### RECOMMENDATIONS

1. The Task Force recommends that the law societies in common law jurisdictions in Canada adopt forthwith a uniform national requirement for entry to their bar admission programs ("national requirement").
2. The Task Force recommends that the National Committee on Accreditation ("NCA") apply this national requirement in assessing the credentials of applicants educated outside Canada.
3. The Task Force recommends that this national requirement be applied in considering applications for new Canadian law schools.
4. The Task Force recommends that the following constitute the national requirement:

#### A. Statement of Standard

##### 1. Definitions

In this standard,

- a. "bar admission program" refers to any bar admission program or licensing process operated under the auspices of a provincial or territorial law society leading to admission as a lawyer in a Canadian common law jurisdiction;
- b. "competency requirements" refers to the competency requirements, more fully described in section B, that each student must possess for entry to a bar admission program; and
- c. "law school" refers to any educational institution in Canada that has been granted the power to award an LL.B. or J.D. degree by the appropriate provincial or territorial educational authority.

##### 2. General Standard

An applicant for entry to a bar admission program ("the applicant") must satisfy the competency requirements by either,

- a. successful completion of an LL.B. or J.D. degree that has been accepted by the Federation of Law Societies of Canada ("the Federation"); or
- b. possessing a Certificate of Qualification from the Federation's National Committee on Accreditation.

## B. Competency Requirements

### 1. Skills Competencies

The applicant must have demonstrated the following competencies:

#### 1.1 Problem-Solving

In solving legal problems, the applicant must have demonstrated the ability to,

- identify relevant facts;
- identify legal, practical, and policy issues and conduct the necessary research arising from those issues;
- analyze the results of research;
- apply the law to the facts; and
- identify and evaluate the appropriateness of alternatives for resolution of the issue or dispute.

#### 1.2 Legal Research

The applicant must have demonstrated the ability to,

- identify legal issues;
- select sources and methods and conduct legal research relevant to Canadian law;
- use techniques of legal reasoning and argument, such as case analysis and statutory interpretation, to analyze legal issues;
- identify, interpret and apply results of research; and
- effectively communicate the results of research.

#### 1.3 Oral and Written Legal Communication

The applicant must have demonstrated the ability to,

- communicate clearly in the English or French language;
- identify the purpose of the proposed communication;
- use correct grammar, spelling and language suitable to the purpose of the communication and for its intended audience; and

- effectively formulate and present well reasoned and accurate legal argument, analysis, advice or submissions.

## 2. Ethics and Professionalism

The applicant must have demonstrated an awareness and understanding of the ethical requirements for the practice of law in Canada, including,

- d. the duty to communicate with civility;
- e. the ability to identify and address ethical dilemmas in a legal context;
- f. familiarity with the general principles of ethics and professionalism applying to the practice of law in Canada, including those related to,
  - i. circumstances that give rise to ethical problems;
  - ii. the fiduciary nature of the lawyer's relationship with the client;
  - iii. conflicts of interest;
  - iv. duties to the administration of justice;
  - v. duties relating to confidentiality and disclosure;
  - vi. an awareness of the importance of professionalism in dealing with clients, other counsel, judges, court staff and members of the public; and
  - vii. the importance and value of serving and promoting the public interest in the administration of justice.

## 3. Substantive Legal Knowledge

The applicant must have undertaken a sufficiently comprehensive program of study to obtain an understanding of the complexity of the law and the interrelationship between different areas of legal knowledge. In the course of this program of study the applicant must have demonstrated a general understanding of the core legal concepts applicable to the practice of law in Canada, including as a minimum the following areas:

### 3.1 Foundations of Law

The applicant must have an understanding of the foundations of law, including,

- principles of common law and equity;
- the process of statutory construction and analysis; and
- the administration of the law in Canada.

### 3.2 Public Law of Canada

The applicant must have an understanding of the core principles of public law in Canada, including,

- the constitutional law of Canada, including federalism and the distribution of legislative powers, the Charter of Rights and Freedoms, human rights principles and the rights of Aboriginal peoples of Canada;
- Canadian criminal law; and
- the principles of Canadian administrative law.

### 3.3 Private Law Principles

The applicant must demonstrate an understanding of the foundational legal principles that apply to private relationships, including,

- contracts, torts and property law; and
- legal and fiduciary concepts in commercial relationships.

### C. Approved Canadian Law Degree

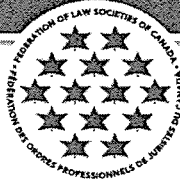
The Federation will accept an LL.B. or J.D. degree from a Canadian law school as meeting the competency requirements if the law school offers an academic and professional legal education that will prepare the student for entry to a bar admission program and the law school meets the following criteria:

1. Academic Program
  - 1.1 The law school's academic program for the study of law consists of three academic years or its equivalent in course credits.
  - 1.2 The course of study consists primarily of in-person instruction and learning and/or instruction and learning that involves direct interaction between instructor and students.
  - 1.3 Holders of the degree have met the competency requirements.
  - 1.4 The academic program includes instruction in ethics and professionalism in a course dedicated to those subjects and addressing the required competencies.
  - 1.5 Subject to special circumstances, the admission requirements for the law school include, at a minimum, successful completion of two years of postsecondary education at a recognized university or CEGEP.

## 2. Learning Resources

- 2.1 The law school is adequately resourced to enable it to meet its objectives, and in particular, has appropriate numbers of properly qualified academic staff to meet the needs of the academic program.
  - 2.2 The law school has adequate physical resources for both faculty and students to permit effective student learning.
  - 2.3 The law school has adequate information and communication technology to support its academic program.
  - 2.4 The law school maintains a law library in electronic and/or paper form that provides services and collections sufficient in quality and quantity to permit the law school to foster and attain its teaching, learning and research objectives.
- 5. The Task Force recommends that the compliance mechanism for law schools be a standardized annual report that each law school Dean completes and submits to the Federation or the body it designates to perform this function. In the annual report the Dean will confirm that the law school has conformed to the academic program and learning resources requirements and will explain how the program of study ensures that each graduate of the law school has met the competency requirements.
  - 6. The Task Force recommends that the Federation, or the body it designates to consider proposals for new Canadian law schools, be entitled to approve a proposal with such conditions as it thinks appropriate, relevant to the national requirement.
  - 7. The Task Force recommends that by no later than 2015, and thereafter, all applicants seeking entry to a bar admission program must meet the national requirement.
  - 8. The Task Force recommends that the Federation establish a committee to implement the Task Force's recommendations.

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## **APPENDIX 2**

# **Working Group Report on the Establishment of the Implementation Committee**

**May 2010**

## **RECOMMENDED PROCESS FOR ESTABLISHING THE IMPLEMENTATION COMMITTEE**

1. An Implementation Committee should be established to be known as the Federation of Law Societies of Canada's Common Law Degree Implementation Committee ("the Implementation Committee").
2. The Implementation Committee's mandate should be,
  - a. to determine how compliance with Section C (Approved Canadian Law Degree)<sup>1</sup> of the recommendations of the Task Force on the Canadian Common Law Degree will be measured. Its mandate may include clarifying or elaborating on the recommendations, where appropriate, to ensure their effective implementation, but will not include altering the substance or purpose of them; and
  - b. to make recommendations as to the establishment of a monitoring body to assume ongoing responsibility for compliance measurement, including an evaluation of the compliance measurement program and the required competencies, and for maintaining the Federation of Law Societies of Canada's ("the Federation") relationship with Canadian law schools. The Implementation Committee should consider any role the National Committee on Accreditation might play in that monitoring process.
3. The Implementation Committee should have seven members, as follows:
  - a. Two law school deans chosen, where possible, from among those deans currently serving on Federation committees.
  - b. At least one law society member who served on the Task Force on the Canadian Common Law degree.

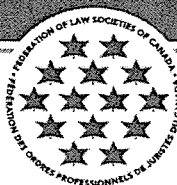
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<sup>1</sup> Section C incorporates by reference the recommendations in Sections A and B. The Task Force Recommendations are attached at the end of this report.

- c. At least one law society member who sits on the current Executive of the Federation.
  - d. At least one law society member who did not sit on the Task Force on the Canadian Common Law Degree.
  - e. At least one sitting benchler, either elected or appointed.
4. The Chair of the Implementation Committee should be one of the law society members. The Managing Director of the National Committee on Accreditation should be invited to attend the Implementation Committee meetings, without being a member of the Committee. The Federation of Law Societies Executive should appoint the Implementation Committee members and name the Chair.
  5. Subject to the Federation's approval, the Implementation Committee should be entitled and encouraged to seek assistance from individuals in law societies, law school faculties and elsewhere as it considers appropriate to ensure the effective carrying out of its mandate.
  6. To ensure that the Implementation Committee can carry out its mandate effectively, it should receive appropriate resourcing and funding, including staff and research assistance.
  7. The Implementation Committee should present its final report to Federation Council no later than September 2011, with approval sought from law societies by December 2011. The Implementation Committee should begin meeting no later than June 2010.



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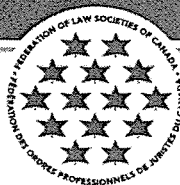
## **APPENDIX 3**

# **Canadian Common Law Degree Law School Report Form**

**Common Law Degree  
Implementation Committee**

**August 2011**

*Federation of Law Societies  
of Canada*



*Fédération des ordres professionnels  
de juristes du Canada*

# **Canadian Common Law Degree Law School Report Form**

**Submitted by:**

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**Name of institution**

---

**Faculty name**

---

**Date**

---

## **Canadian Common Law Degree Law School Report Form**

### **PREFACE AND PURPOSE OF PROCESS:**

Each Canadian law school with a common law degree program is to complete the following report form to enable the Canadian Common Law Program Approval Committee (Approval Committee) to determine that the law school's graduates have earned degrees that meet the Federation of Law Societies of Canada's national requirement (national requirement) for entry to the admission programs of law societies in Canadian common law jurisdictions. The form contains two parts. Part 1 seeks information common to all the law school's programs and Part 2 seeks information respecting each program for which the law school seeks approval. Law schools will complete a Part 2 for each program, including joint programs, for which approval is sought.

Beginning in 2015 and annually thereafter the Approval Committee's final reports will be public and posted on the Federation's website. These reports will set out the basis for the Approval Committee's findings respecting each law program for which approval is sought, provided that any information subject to privacy or other personal information will not appear in the public report. Because the national requirement does not come into effect until 2015, the reports in 2012, 2013 and 2014 will be progress reports and will not be public.

The Federation website will also identify each school's programs that apply the Program Approval Model and those that apply the Individual Student Approval Model.



## Canadian Common Law Degree Law School Report Form

### Contact Information

Name of Faculty/School:

\_\_\_\_\_

Address:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Web Site Address (URL):

\_\_\_\_\_

### Contact Person

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_



## Canadian Common Law Degree Law School Report Form

### Signature Form

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#### *(Name of Institution and Faculty/School)*

submits the following documentation to the Federation of Law Societies of Canada in accordance with the requirements for approval of the common law degree for purposes of entry of their graduates to the admission programs of law societies in Canadian common law jurisdictions.

The information submitted in this Report is a true and accurate description of the law faculty/school's academic program and learning resources on which information is requested.

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#### *Signature of Dean or other Administrative Head of the Faculty/School*

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**Name**

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**Title**

---

**Date**



## Canadian Common Law Degree Law School Report Form

### GLOSSARY OF TERMS - TBD

### GENERAL INSTRUCTIONS - TBD

[The commentary and elaboration on the competencies and any other guidance will be provided here.]

### CALENDARS

Electronic copies of the latest calendar must be included. In cases where the latest calendar information does not correspond to the curriculum of the upcoming graduation class, an appropriate explanation must be part of the documentation provided.

### EXHIBITS

The following supplemental information should be attached at the end of the completed report.

- Exhibit 1: Documents describing the processes and policies for student admission, promotion, and graduation
- Exhibit 2: Copies of degree certificates and transcript entries for all variations of the program [This might need an explanation / examples – such as joint degrees with other professional faculties, joint degrees with other universities etc.]
- Exhibit 3: The program may wish to include a matrix of course and other offerings against the national requirements. See example at xxxx.
- Exhibit 4: Any other document that the program deems relevant for evaluation.

### WHERE TO SEND YOUR MATERIALS

[Contact information for Approval Committee will be inserted.]



Canadian Common Law Degree  
Law School Report Form

PART 1: INFORMATION COMMON TO ALL THE LAW SCHOOL'S PROGRAMS

Please provide a general description of the law school/faculty and any other introductory material.

Please list below all programs, including joint programs, offered by the law school and which compliance model will be followed for each, if any:

Names of Programs	Compliance Model (program approval, individual student approval, or no approval will be sought)



## Canadian Common Law Degree Law School Report Form

### 1. Learning Resources:

- 1.1 *The law school is adequately resourced to enable it to meet its objectives, and in particular, has appropriate numbers of properly qualified academic staff to meet the needs of the academic program.*

The Implementation Committee recommends that the following information be provided in this section:

- General description of numbers of full-time faculty, contract instructors, sessional lecturers and support staff, including significant changes from previous year.
- General description of full-time faculty, contract instructor and sessional lecturer qualifications.
- Number of full-time equivalent students in each program.
- General description of student support services.
- Overview of law school operating budget for the academic program from all sources, and sources of funding.

- 1.2 *The law school has adequate physical resources for both faculty and students to permit effective student learning.*

The Implementation Committee recommends that the following information be provided in this section:

- Overall description of law school space, including whether the space is adequate for the law program(s), any space challenges faced by the school and their impact on the program and proposed or planned solutions.
- Description of space available to the law school to carry out the academic program offered, including seminar rooms, quiet study space for students, etc.
- Description of accessibility of the current space.

- 1.3 *The law school has adequate information and communication technology to support its academic program.*

The Implementation Committee recommends that the following information be provided in this section:

- Description of what IT services are provided at the law school.
- Description of dedicated or shared staff and level of support provided to faculty, staff and students.



## Canadian Common Law Degree Law School Report Form

- 1.4 *The law school maintains a law library in electronic and/or paper form that provides services and collections sufficient in quality and quantity to permit the law school to foster and attain its teaching, learning and research objectives.*

(A useful reference for this requirement is the Canadian Academic Law Library Directors Association's standards.)

The Implementation Committee recommends that the following information be provided in this section:

- Overview of library staff complement, qualifications and reporting structure.
- Overview of library facilities and description of collection and collections policies.
- Overview of library acquisitions budget.
- General description of support services available to faculty, students and other library users.

## PART 2: INFORMATION SPECIFIC TO EACH PROGRAM

Please indicate under which of the following your program is applying for approval, for this reporting period:

- ☐ Program Approval Model: Each graduate must have obtained an approved law degree for purpose of entry to law society bar admission/licensing programs
- ☐ Individual Student Approval Model: The law school will individually evaluate each student and determine which graduates will have an approved law degree for purpose of entry to law society bar admission/licensing programs.

## COMPETENCY REQUIREMENTS

### 1. Skills Competencies

*The applicant must have demonstrated the following competencies:*

## Canadian Common Law Degree Law School Report Form

### 1.1 Problem Solving

*In solving legal problems, the applicant must have demonstrated the ability to,*

- a. identify relevant facts;*
- b. identify legal, practical, and policy issues and conduct the necessary research arising from those issues;*
- c. analyze the results of research;*
- d. apply the law to the facts; and*
- e. identify and evaluate the appropriateness of alternatives for resolution of the issue or dispute.*

Please describe how your graduates will meet this requirement (supporting documents may be attached):

### 1.2 Legal Research

*The applicant must have demonstrated the ability to,*

- a. identify legal issues;*
- b. select sources and methods and conduct legal research relevant to Canadian law;*
- c. use techniques of legal reasoning and argument, such as case analysis and statutory interpretation, to analyze legal issues;*
- d. identify, interpret and apply results of research; and*
- e. effectively communicate the results of research.*



## Canadian Common Law Degree Law School Report Form

Please describe how your graduates will meet this requirement (supporting documents may be attached):

### 1.3 Oral and Written Legal Communication

*The applicant must have demonstrated the ability to,*

- a. communicate clearly in the English or French language;*
- b. identify the purpose of the proposed communication;*
- c. use correct grammar, spelling and language suitable to the purpose of the communication and for its intended audience; and*
- d. effectively formulate and present well reasoned and accurate legal argument, analysis, advice or submissions.*

Please describe how your graduates will meet this requirement (supporting documents may be attached):

## 2. Ethics and Professionalism

*The applicant must have demonstrated an awareness and understanding of the ethical dimensions of the practice of law in Canada and an ability to identify and address ethical dilemmas in a legal context, which includes,*

- 1. Knowledge of,*
  - a. the relevant legislation, regulations, rules of professional conduct and common or case law and general principles of ethics and professionalism applying to the practice of law in Canada. This includes familiarity with,*
    - 1. circumstances that give rise to ethical problems;*



## Canadian Common Law Degree Law School Report Form

2. *the fiduciary nature of the lawyer's relationship with the client;*
  3. *conflicts of interest;*
  4. *the administration of justice;*
  5. *duties relating to confidentiality, lawyer-client privilege and disclosure;*
  6. *the importance of professionalism, including civility and integrity, in dealing with clients, other counsel, judges, court staff and the public; and*
  7. *the importance and value of serving and promoting the public interest in the administration of justice.*
- b. *The nature and scope of a lawyer's duties including to clients, the courts, other legal professionals, law societies, and the public.*
  - c. *The range of legal responses to unethical conduct and professional incompetence;*
  - d. *The different models concerning the roles of lawyers, the legal profession, and the legal system, including their role in the securing access to justice.*
2. *Skills to,*
    - a. *identify and make informed and reasoned decisions about ethical problems in practice; and*
    - b. *identify and engage in critical thinking about ethical issues in legal practice.*

Please describe how your graduates will meet this requirement (supporting documents may be attached):



### 3. Substantive Legal Knowledge

*The applicant must have undertaken a sufficiently comprehensive program of study to obtain an understanding of the complexity of the law and the interrelationship between different areas of legal knowledge. In the course of this program of study the applicant must have demonstrated a general understanding of the core legal concepts applicable to the practice of law in Canada, including as a minimum the following areas:*

Please describe how your graduates will have undertaken a sufficiently comprehensive program of study to obtain an understanding of the complexity of the law and the interrelationship between different areas of legal knowledge. (Supporting documents may be attached):

#### 3.1 Foundations of Law

*The applicant must have an understanding of the foundations of law, including,*

- a. principles of common law and equity;*
- b. the process of statutory construction and analysis; and*
- c. the administration of the law in Canada.*

Please describe how your graduates will meet this requirement (supporting documents may be attached):



## Canadian Common Law Degree Law School Report Form

### 3.2 Public Law of Canada

*The applicant must have an understanding of the principles of public law in Canada, including,*

- a. the constitutional law of Canada, including federalism and the distribution of legislative powers, the Charter of Rights and Freedoms, human rights principles and the rights of Aboriginal peoples of Canada;*
- b. Canadian criminal law; and*
- c. the principles of Canadian administrative law.*

Please describe how your graduates will meet this requirement (supporting documents may be attached):

### 3.3 Private Law Principles

*The applicant must demonstrate an understanding of the principles that apply to private relationships, including,*

- a. contracts, torts and property law; and*
- b. legal and fiduciary concepts in commercial relationships*

Please describe how your graduates will meet this requirement (supporting documents may be attached):



## Canadian Common Law Degree Law School Report Form

### APPROVED CANADIAN LAW DEGREE

*The Federation will accept an LL.B. or J.D. degree from a Canadian law school as meeting the competency requirements if the law school offers an academic and professional legal education that will prepare the student for entry to a bar admission program and the law school meets the following criteria;<sup>19</sup>*

#### 4. Academic Program

*4.1 The law school's academic program for the study of law consists of three full-time academic years or the equivalent in course credits, which, presumptively, is 90 course credits.*

Please describe how your graduates will meet this requirement (supporting documents may be attached):

*4.2 The course of study consists primarily of in-person instruction and learning and/or instruction and learning that involves direct interaction between instructor and students.*

Please describe how your graduates will meet this requirement (supporting documents may be attached):

*4.3 Holders of the degree have met the competency requirements.*

Please add any comments in addition to the responses to the competency requirements, above:

<sup>19</sup> The Approved Canadian Law Degree criteria include both the Academic Program, in Part 2 of this form, and the Learning Resources, in Part 1 of this form.



## Canadian Common Law Degree Law School Report Form

Please describe how your program will ensure that transfer students from programs other than a Federation approved Canadian common law program will meet the national requirement:

Please describe how your program will ensure that graduates of your program who take part of their program at another institution (either through an exchange or letter of permission) will meet the national requirement:





## Canadian Common Law Degree Law School Report Form

4.4 *The academic program includes instruction in ethics and professionalism in a course dedicated to those subjects and addressing the required competencies. ("Course" is properly interpreted to allow for both,*

- *a single stand alone course devoted to ethics and professionalism that at a minimum addresses the required competencies, and*
- *a demonstrable course of study devoted to ethics that could be delivered,*
  - (1) *within a single course that addresses other topics, provided there is a dedicated unit on ethics and professionalism that at a minimum addresses the required competencies; and/or*
  - (2) *in multiple years within courses that address other topics, provided there are dedicated units on ethics and professionalism that at a minimum address the required competencies.*

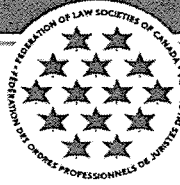
Please describe how your graduates will meet this requirement (supporting documents may be attached):

4.5 *Subject to special, circumstances, the admission requirements for the law school include, at a minimum, successful completion of two years of postsecondary education at a recognized university or CEGEP.*

Please describe how your graduates will meet this requirement (supporting documents may be attached):



*Federation of Law Societies  
of Canada*



*Fédération des ordres professionnels  
de juristes du Canada*

## **APPENDIX 4**

# **Common Law Program Approval Timelines**

**Common Law Degree  
Implementation Committee**

**August 2011**

## Canadian Common Law Program

# Approval Timelines

### *Draft for 2012 Process*

This calendar is an approximate timeline of the approval process. The dates may vary depending on your situation.

**Transition note:** The Canadian Common Law Program National Requirement comes into effect for 2015 graduates. Therefore, the 2012, 2013 and 2014 approval processes will be prospective. That is, the Committee will be evaluating, at least in part, the future plans for the law programs, for which approval is being sought. As of 2015, and every year thereafter, the Committee will evaluate the program followed by the graduates of that year.

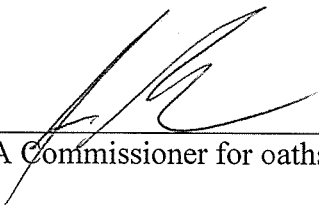
<i>Date</i>	<i>Event</i>	<i>Action by</i>
October - November 2011	Draft reporting form and instructions are distributed to the law schools for advance information.	Staff
November 2011	Dean acknowledges receipt of documentation and timelines for report completion.	Dean
December 2011	Preparation of report begins.	Dean/Law School Faculty and Staff
January 2012	Final version of reporting form is sent to the Dean.	Staff
February/ March 2012	Completed report is sent to Staff.	Dean
March 2012	Staff review form, seek any clarification required from the law school, and distributes it to the Committee members.	Staff
April 2012	Committee meets to consider the reports.	Committee and Staff



<i><b>Date</b></i>	<i><b>Event</b></i>	<i><b>Action by</b></i>
May 2012	Draft decision is sent to Dean for comment.	Staff
	Dean sends his/her comments/responses, if any, to Staff.	Dean
	Dean's comments, if any, are sent to Committee for review and response. Discussions on any deficiencies take place and involve the Dean, Committee Chair or his/her delegate.	Staff
	Committee finalizes decisions.	Committee
June 2012	Committee Final Report is prepared and reviewed.	Committee Chair and Staff
	Committee Final Report is sent to Dean by June 30, 2012.	Committee Chair and Staff
July 2012	Report on 2012 reviews is forwarded to Federation and law societies for information. No website posting because 2012 is a progress report.	Staff



This is Exhibit "C" to the Affidavit of Cheryl McKinnon  
Sworn Before Me in the City of Toronto, Province of Ontario  
This 28<sup>th</sup> day of May, 2014



---

A Commissioner for oaths, etc.

**ABA Standards *and*  
Rules of Procedure *for*  
Approval of Law Schools**

**2 0 1 3 - 2 0 1 4**

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The 2013-2014 ABA Standards and Rules of Procedure for Approval of Law Schools were adopted by the Council of the ABA Section and Legal Education and Admissions to the Bar and concurred in by the ABA House of Delegates in August 2013.

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# Preface

## Accrediting Agency for Law

Since 1952, the Council of the Section of Legal Education and Admissions to the Bar (“the Council”) of the American Bar Association (“the ABA”) has been approved by the United States Department of Education as the recognized national agency for the accreditation of programs leading to the J.D. It is the Council and its Accreditation Committee not the ABA that is so recognized.

The majority of the highest courts of the states rely upon ABA approval of a law school to determine whether the jurisdiction’s legal education requirement for admission to the bar is satisfied. Whether a jurisdiction requires education at an ABA-approved law school is a decision made by a jurisdiction’s bar admission authority and not by the Council or the ABA. The Council and the ABA believe that every candidate for admission to the bar should have graduated from a law school approved by the ABA and that every candidate for admission should be examined by public authority to determine fitness for admission.

## History

The ABA in 1879 established the Standing Committee on Legal Education and Admissions to the Bar as one of the ABA’s first committees. In 1893, the Section of Legal Education and Admissions to the Bar was established as the Association’s first section. Recognizing the need to take further steps to improve legal education, the Section leadership played the major role in creating the Association of American Law Schools (AALS) in 1900. The AALS has a regulatory role in that member law schools must meet its requirements for membership, but the AALS is not recognized by the Department of Education as an accrediting agency, and no jurisdiction requires that one have graduated from an AALS member law school in order to be eligible for admission to the bar.

In 1921 the American Bar Association promulgated its first *Standards for Legal Education*. At the same time, the ABA began to publish a list of ABA-approved law schools that met the ABA Standards.

To administer its program of approval of law schools meeting the Standards, the ABA in 1927 employed Professor H. Claude Horack of the University of Iowa College of Law as the first Advisor to the Section. When Professor Millard H. Ruud of the University of Texas was appointed in 1968 to succeed then-Advisor to the Section Dean John G. Hervey of Oklahoma City University School of Law, the title was changed to Consultant on Legal Education to the American Bar Association in order to recognize the broader responsibilities of the position.

Professor James P. White of Indiana University School of Law-Indianapolis succeeded Professor Ruud in January 1974 and served as Consultant until the end of August 2000. John A. Sebert, previously Dean at the University of Baltimore School of Law, succeeded Dean White as of September 1, 2000 and served as Consultant through August 31, 2006. Hulett H. Askew, former Director of Bar Admissions for the Supreme

Court of Georgia, served as the Consultant from September 2006 to August 2012. Barry Currier, former dean of Concord Law School, served as interim consultant from September 2012 to March 2013 when the position became permanent. At that time, the title Consultant was changed to Managing Director of Accreditation and Legal Education.

## **Revisions of the Standards, Interpretations and Rules of Procedure through 1996**

### *The Revisions of the Early 1970s*

A major revision of the 1921 Standards was undertaken in the early 1970s. After an extensive comment process, the revised Standards and the Rules of Procedure were adopted by the Section of Legal Education and Admissions to the Bar in August, 1972, and were approved by the ABA House of Delegates in February, 1973.

### *Ramsey Commission*

In 1988 Judge Henry Ramsey, Jr., of the Alameda County, California, Superior Court and Chair-Elect of the Section, was asked to chair a study of the accreditation process. As a result of the work of the Ramsey Commission, a number of revisions to the Rules of Procedure were adopted in 1989.

### *Department of Justice Consent Decree*

In June 1995, the United States Department of Justice filed a civil antitrust suit against the ABA, alleging violations of antitrust laws in the accreditation program. The civil suit was concluded by a final Consent Decree that was approved in June 1996. It included a number of requirements concerning the Standards, many of which reflected revisions that the ABA had previously adopted. The Consent Decree was in force for a period of ten years and expired by its own terms on June 25, 2006. The Council has determined, however, that after the expiration of the Consent Decree, accreditation processes and procedures will continue to observe the substantive provisions of the Consent Decree.

### *The Wahl Commission and the 1996 Revisions of the Standards*

In 1992 the Council launched a formal revision of the Standards and their Interpretations. In the midst of that review, in April 1994, the Council established the Commission to Study the Substance and Process of the American Bar Association's Accreditation of American Law Schools. Justice Rosalie E. Wahl of the Supreme Court of Minnesota, and a former chairperson of the Section, accepted appointment as chairperson. The Wahl Commission's mandate was to conduct a thorough, independent examination of all aspects of law school accreditation by the ABA. Upon the basis of hearings, solicited written comments, and surveys, the Commission prepared a report for submission at the 1995 annual meeting of the ABA.

The Consent Decree, however, required that the ABA establish a special commission to determine whether the Standards, Interpretations, and Rules of Procedure should be revised in some respects. It was agreed by the Department of Justice and the ABA that the Wahl Commission's mandate would be enlarged to include these matters and that the Commission's tenure would be continued. In response to this additional mandate, in November 1995 the Wahl Commission submitted a supplement to its August 1995 report.

The four-year revision process that began in 1992 and culminated with the work of the Wahl Commission focused both on the form and the substance of the Standards and Interpretations. After extensive opportunity for comment, the revised Standards were approved by the Council and adopted by the House of Delegates in August, 1996.

## **Review of the Standards, Interpretations and Rules of Procedure Since 1996**

Proposed revisions to the Standards, Interpretations and Rules of Procedure are subject to an extensive public comment process. Proposed revisions are widely distributed for comment, and comment is solicited

by letter and e-mail, and at public hearings. Proposed revisions are then carefully considered in light of the comment received before any final action is taken.

The Council, with the assistance of the Standards Review Committee, regularly reviews and revises the Standards and Interpretations to ensure that they are appropriate requirements for current legal education programs and that they focus on matters that are central to the provision of quality legal education. A comprehensive review of the Standards and Interpretations was undertaken during 1996–2000. Another such comprehensive review was undertaken from 2003 through 2006. The next comprehensive review commenced in fall 2008 and is ongoing.

In the summer of 2004, the Council appointed a Rules Revision Committee, chaired by Provost E. Thomas Sullivan of the University of Minnesota (a former chair of the Section), to undertake and recommend a comprehensive revision of the Rules. In June 2005 the Council accepted the Committee's report and shortly thereafter distributed for comment a proposed comprehensive revision of the Rules. The Council adopted the comprehensive revision of the Rules of Procedure in December 2005 and the House of Delegates concurred in those revisions in February 2006.

### **Council Responsibility**

The Council grants provisional and full ABA approval to law schools located in the United States, its territories, and possessions. It also adopts the Standards for Approval of Law Schools and the Interpretations of those Standards, and the Rules of Procedure that govern the law school approval process. The Council also must grant prior acquiescence in any major changes that are proposed by an approved law school.

### **ABA House of Delegates Responsibility**

In August 2010, the role of the ABA House of Delegates in accreditation matters was revised in order to comply with new Department of Education requirements regarding appeals. Prior to August 2010, a school that was denied provisional or full approval by the Council was able to file an appeal to the House of Delegates. The House of Delegates could either concur in the Council's decision or refer that decision back to the Council for further consideration. A decision of the Council was final after referral from the House of Delegates a maximum of two times in the case of decisions denying provisional or full approval, or once in the case of decisions to withdraw approval from a school. As a result of the changes in August 2010, the House of Delegates no longer has a role in the appeals process. (See Standard 801, Rule 10 and IOP 19.)

Any decision of the Council to adopt any revisions to the Standards, Interpretations or Rules of Procedure must be reviewed by the House of Delegates. The House either concurs in those revisions or refers them back to the Council for further consideration. The Council's decision after the second referral back is final.

### **Contents of this Publication**

#### *Standards and Interpretations*

The Standards contain the requirements a law school must meet to obtain and retain ABA approval. Interpretations that follow the Standards provide additional guidance concerning the implementation of a particular Standard and have the same force and effect as a Standard. Almost all Standards and Interpretations are mandatory, stating that a law school "shall" or "must" do as described in the Standard or Interpretation. A few Standards and Interpretations are not mandatory but rather are stated as goals that an approved law school "should" seek to achieve.

---

*Rules of Procedure*

The Rules of Procedure govern the accreditation process and the process through which decisions concerning the status of individual schools are made. The Rules also contain provisions related to the operation of the Office of the Consultant on Legal Education.

*Criteria for Approval of Foreign Programs*

Under its authority to adopt rules implementing the Standards, the Council has adopted criteria for the approval of programs leading to credit for the J.D. degree that are undertaken outside the United States by ABA-approved law schools. Those Criteria include the Criteria for Approval of Foreign Summer and Intersession Programs, the Criteria for Approval of Semester and Year-Long Study Abroad Programs, and the Criteria for Student Study at a Foreign Institution. The Council has delegated to the Accreditation Committee the authority to approve programs under the Criteria.

*Additional Contents*

The Statement of Ethical Practices in the Process of Law School Accreditation contains principles that ensure impartiality and propriety in all aspects of the accreditation process. Internal Operating Practices provide additional direction concerning the operation of accreditation functions and other activities of the Office of the Consultant on Legal Education. Council Statements are positions that the Council has taken on various matters that do not have the force of a mandatory Standard or Interpretation. Consultant's Memos are issued periodically to assist schools in coming into compliance with the Standards.

## Preamble

The Standards for Approval of Law Schools of the American Bar Association are founded primarily on the fact that law schools are the gateway to the legal profession. They are minimum requirements designed, developed, and implemented for the purpose of advancing the basic goal of providing a sound program of legal education. Consistent with their aspirations, mission and resources, law schools should continuously seek to exceed these minimum requirements in order to improve the quality of legal education and to promote high standards of professional competence, responsibility and conduct.

The graduates of approved law schools can become members of the bar in all United States jurisdictions, representing all members of the public in important interests. Therefore, an approved law school must provide an opportunity for its students to study in a diverse educational environment, and in order to protect the interests of the public, law students, and the profession, it must provide an educational program that ensures that its graduates:

- (1) understand their ethical responsibilities as representatives of clients, officers of the courts, and public citizens responsible for the quality and availability of justice;
- (2) receive basic education through a curriculum that develops:
  - (i) understanding of the theory, philosophy, role, and ramifications of the law and its institutions;
  - (ii) skills of legal analysis, reasoning, and problem solving; oral and written communication; legal research; and other fundamental skills necessary to participate effectively in the legal profession;
  - (iii) understanding of the basic principles of public and private law; and
- (3) understand the law as a public profession calling for performance of pro bono legal services.

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# CHAPTER 1

## General Purposes and Practices; Definitions

### Standard 101. BASIC REQUIREMENTS FOR APPROVAL

A law school approved by the Association or seeking approval by the Association shall demonstrate that its program is consistent with sound legal education principles. It does so by establishing that it is being operated in compliance with the Standards.

#### *Interpretation 101-1*

*To enable the Accreditation Committee and Council to determine whether a law school has demonstrated that its program of legal education is consistent with sound legal education principles and is being operated in compliance with the Standards, a law school shall furnish an annual questionnaire, self-study, site evaluation questionnaire, and such other information as the Accreditation Committee and Council may require. These documents must be complete and accurate and submitted timely in the form specified.*

*The information provided by these means not only informs the Council about the status of each law school but also enables the Council, in meeting its obligations with respect to legal education as a whole, to ascertain national norms of legal education, areas in which improvements are being made, and those where further attention is needed.*



**Interpretation 101-2**

*Accreditation or approval of a law school by the American Bar Association is not transferable. A transfer of all, or substantially all, of the academic programs or assets of (1) a law school or (2) a university or college of which the law school is a part does not include the transfer of the law school's accreditation status.*

**Standard 102. PROVISIONAL APPROVAL**

- (a) A law school shall be granted provisional approval only if it establishes that it is in substantial compliance with each of the Standards and presents a reliable plan for bringing the law school into full compliance with the Standards within three years after receiving provisional approval.
- (b) A law school that is provisionally approved may have its approval withdrawn if it is determined that the law school is not in substantial compliance with the Standards or that the law school is not making adequate progress toward coming into full compliance with the Standards. If five years have elapsed since the law school was provisionally approved and it has not qualified for full approval, provisional approval shall lapse and the law school shall automatically be removed from the list of approved law schools unless, prior to the end of the five year period, in an extraordinary case and for good cause shown, the Council extends the time within which the law school must obtain full approval.
- (c) A law school shall confer the J.D. degree contemporaneously with the time academic requirements for the degree are completed.

**Interpretation 102-1**

*Substantial compliance must be achieved as to each of the Standards. Substantial compliance with each Standard is measured at the time a law school seeks provisional approval. Plans for construction, financing, library improvement, and recruitment of faculty which are presented by a law school seeking provisional approval do not, in themselves, constitute evidence of substantial compliance.*

**Interpretation 102-2**

*In order to establish that it has a reliable plan to come into full compliance with the Standards within three years after receiving provisional approval, a law school must clearly state the specific steps that it plans to take to bring itself into full compliance and must show that there is a reasonable probability that such steps will be successful.*

**Interpretation 102-3**

*A law school seeking provisional approval may not offer a post-J.D. degree program. The primary focus of a school seeking provisional approval should be to do everything necessary to comply with the Standards for the J.D. degree program.*

**Interpretation 102-4**

*A student at a provisionally approved law school and an individual who graduates while the school is provisionally approved are entitled to the same recognition given to students and graduates of fully approved law schools.*

**Interpretation 102-5**

*An approved law school may not retroactively grant a J.D. degree to a graduate of its predecessor unapproved institution.*

**Interpretation 102-6**

*A provisionally approved law school shall state in all of its printed and electronic materials generally describing the law school and its program and in any printed and electronic materials specifically targeted at prospective students that it is a provisionally approved law school. Similarly, when it refers to its approval status in publicity releases and communications with all students, applicants or other interested parties, it shall state that it is a provisionally approved law school.*

**Interpretation 102-7**

*An unapproved law school seeking provisional approval must include the following language in all of its printed and electronic materials generally describing the law school and its program and in any printed and electronic materials specifically targeted at prospective students:*

*The Dean is fully informed as to the Standards and Rules of Procedure for the Approval of Law Schools by the American Bar Association. The Administration and the Dean are determined to devote all necessary resources and in other respects to take all necessary steps to present a program of legal education that will qualify for approval by the American Bar Association. The Law School makes no representation to any applicant that it will be approved by the American Bar Association prior to the graduation of any matriculating student.*

**Interpretation 102-8**

*In most jurisdictions an individual cannot sit for the bar examination unless he or she has graduated from a law school fully or provisionally approved by the American Bar Association. However, the determination of qualifications and fitness to sit for the bar examination is made by the jurisdiction's bar admission authorities.*

**Interpretation 102-9**

*A law school seeking provisional approval shall not delay conferring a J.D. degree upon a student in anticipation of obtaining American Bar Association approval.*

**Interpretation 102-10**

*An individual who matriculates at a law school that is provisionally approved or who is a student enrolled in a law school at the time it receives provisional approval and who completes the course of study and graduates from that school within a typical and reasonable period of time is deemed by the Council to be a graduate of an approved law school, even though the school loses its provisional approval status while the individual is enrolled in the school.*

**Standard 103. FULL APPROVAL**

- (a) A law school is granted full approval if it establishes that it is in full compliance with the Standards and it has been provisionally approved for not fewer than two years.
- (b) Sanctions, including probation and removal from the list of law schools approved by the Association, may be imposed upon a law school as provided in Rules 16 and 17 of the Rules.

**Interpretation 103-1**

*An individual who matriculates at a law school that is then approved and who completes the course of study and graduates in the normal period of time required therefore is deemed a graduate of an approved school, even though the school's approval was withdrawn while the individual was enrolled therein.*

**Interpretation 103-2**

*In the case of an approval required as the consequence of a major change in organizational structure, the minimum time period of two years stated in this Standard may be modified and/or conditioned pursuant to Rule 20 of the Rules of Procedure for Approval of Law Schools.*

**Standard 104. [Reserved]****Standard 105. MAJOR CHANGE IN PROGRAM OR STRUCTURE**

Before a law school makes a major change in its program of legal education or organizational structure it shall obtain the acquiescence of the Council for the change. Subject to the additional requirements of subsections (1) and (2), acquiescence shall be granted only if the law school establishes that the change will not detract from the law school's ability to meet the requirements of the Standards.

- (1) If the proposed major change is the establishment of a degree program other than the J.D. degree, the law school must also establish that it meets the requirements of Standard 308.
- (2) If the proposed major change involves instituting a new full-time or part-time division, merging or affiliating with one or more approved or unapproved law schools, acquiring another law school or educational institution, or opening a Branch or Satellite campus, the law school must also establish that the law school is in compliance with the Standards or that the proposed major change will substantially enhance the law school's ability to comply with the Standards.

**Interpretation 105-1**

*Major changes in the program of legal education or the organizational structure of a law school include:*

- (1) *Instituting a new full-time or part-time division;*
- (2) *Changing from a full-time to a part-time program or from a part-time to a fulltime program;*
- (3) *Establishing a two-year undergraduate/four year law school or similar program;*
- (4) *Establishing a new or different program leading to a degree other than the J.D. degree;*
- (5) *A change in program length measurement from clock hours to credit hours;*
- (6) *A substantial increase in the number of clock or credit hours that are required for graduation;*
- (7) *Merging or affiliating with one or more approved or unapproved law schools;*
- (8) *Merging or affiliating with one or more universities;*
- (9) *Materially modifying the law school's legal status or institutional relationship with a parent institution;*
- (10) *Acquiring another law school, program, or educational institution;*

- (11) *Acquiring or merging with another university by the parent university where it appears that there may be substantial impact on the operation of the law school;*
- (12) *Transferring all, or substantially all, of the academic program or assets of the approved law school to another law school or university;*
- (13) *Opening of a Branch campus or Satellite campus;*
- (14) *A change in control of the school resulting from a change in ownership of the school or a contractual arrangement;*
- (15) *A change in the location of the school that could result in substantial changes in the faculty, administration, student body, or management of the school;*
- (16) *Contracting with an educational entity that is not certified to participate in Title IV, HEA programs, that would permit a student to earn 25 percent or more of the course credits required for graduation from the approved law school;*
- (17) *The addition of a permanent location at which the law school is conducting a teach-out for students at another law school that has ceased operating before all students have completed their program of study;*
- (18) *A significant change in the mission or objectives of the law school; and*
- (19) *The addition of courses or programs that represent a significant departure from existing offerings or method of delivery since the last accreditation period.*

#### **Interpretation 105-2**

*The establishment of a Branch campus of an approved law school constitutes the creation of a different law school. Consequently, a Branch campus must have a permanent full-time faculty, an adequate working library, adequate support and administrative staff, and adequate physical facilities and technological capacities. A Branch campus shall apply for provisional approval under the provisions of Standard 102 and Rule 4.*

#### **Interpretation 105-3**

*The establishment of a Satellite campus at which a law school offers no more than the first year of its full-time program, or the first three semesters (or equivalent) of its part-time program, requires at least:*

- (1) *Full-time faculty of the law school who teach substantially all of the curriculum offered at the Satellite campus and who are reasonably available at the Satellite campus for consultation with students;*
- (2) *Library resources and staff at the Satellite campus that are adequate to support the curriculum offered at the Satellite campus and that are reasonably accessible to students at the Satellite campus;*
- (3) *Academic advising, career services and other student support services that are adequate to support the program offered at the Satellite campus, that are reasonably equivalent to such services offered to similarly situated students at the law school's main campus and that are offered in person at the Satellite campus or otherwise are reasonably accessible to students at the Satellite campus;*
- (4) *That students attending the Satellite campus have access to the school's co-curricular activities and other educational benefits on a roughly proportional basis; and*
- (5) *Physical facilities and technological capacities at the Satellite campus that are adequate to support the curriculum offered at and the students attending the Satellite campus.*

**Interpretation 105-4**

*A law school that seeks to establish a Satellite campus at which it will offer courses beyond its first-year program must show that it can adequately support its program at the Satellite campus. It must establish at least:*

- (1) That students attending the Satellite campus have reasonable access to full-time faculty, library resources and staff, and academic advising, career services and other support services that are adequate to support the program that the law school offers at the Satellite campus and that are reasonably equivalent to the resources and services offered to similarly situated students at the law school's main campus;*
- (2) That students attending the Satellite campus have access to the school's co-curricular activities and other educational benefits on a roughly proportional basis; and*
- (3) That the physical facilities and technological capacities at the Satellite campus are adequate to support the curriculum offered at and the students attending the Satellite campus.*

**Interpretation 105-5**

*If a student would be able to take at a Satellite campus the equivalent of two-thirds or more of the credit hours that a law school requires for the award of the J.D. degree, all of the requirements set forth in Interpretation 105-2 apply to the establishment of such a Satellite campus except the requirement concerning provisional approval.*

**Interpretation 105-6**

*The Council has delegated to the Accreditation Committee the authority to grant acquiescence in the types of major changes listed in Interpretations 105-1 (4), (5), (6), and (16).*

**Standard 106. DEFINITIONS**

As used in the Standards and Interpretations:

- (1) "Accreditation Committee" means the Accreditation Committee of the Section.
- (2) "Approved law school" means a law school that appears on the list of law schools approved by the American Bar Association.
- (3) "Association" means the American Bar Association.
- (4) "Branch campus" means a separate location at which the law school offers sufficient courses that a student could earn at the separate location all of the credit hours that the law school requires for the J.D. degree.
- (5) "Consultant" means the Consultant on Legal Education to the American Bar Association.
- (6) "Council" means the Council of the Section.
- (7) "Dean" includes an acting or interim dean.
- (8) "Governing board" means a board of trustees, board of regents, or comparable body that has ultimate policy making authority for a law school or the university of which the law school is a part.
- (9) "House" means the House of Delegates of the American Bar Association.

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- (10) "Interpretations" mean the Interpretations of the Standards for Approval of Law Schools.
  - (11) "J.D. degree" means the first professional degree in law granted by a law school.
  - (12) "President" includes the chief executive officer of a university or, if the university has more than one administratively independent unit, of the unit of which a law school is a part.
  - (13) "Probation" is a public status indicating that the law school is in substantial non-compliance with the Standards and is at risk of being removed from the list of approved law schools.
  - (14) "Rules" mean the Rules of Procedure for the Approval of Law Schools by the American Bar Association.
  - (15) "Satellite campus" means a separate location (other than one approved under the Criteria for Approval of Semester Abroad Programs) which is not within reasonable proximity to the main law school campus and at which a student could take the equivalent of 16 or more semester credit hours toward the law school's J.D. degree but which does not constitute a Branch campus.
  - (16) "Section" means the Section of Legal Education and Admissions to the Bar of the American Bar Association.
  - (17) "Standards" mean the Standards for the Approval of Law Schools.
  - (18) "University" means a post secondary educational institution that confers a baccalaureate degree and may grant other degrees, whether it is called university, college, or other name.

# CHAPTER 2

## Organization and Administration

### Standard 201. RESOURCES FOR PROGRAM

- (a) The present and anticipated financial resources of a law school shall be adequate to sustain a sound program of legal education and accomplish its mission.
- (b) A law school shall be so organized and administered that its resources are used to provide a sound program of legal education and to accomplish its mission.

#### ***Interpretation 201-1***

*A law school does not comply with the Standards if its financial resources are so inadequate as to have a negative and material effect on the education students receive.*

#### ***Interpretation 201-2***

*A law school may not base the compensation paid any person for service to the law school (other than compensation paid a student or associate for reading and correcting papers or similar activity) on the number of persons enrolled in the law school or in any class or on the number of persons applying for admission to or registering in the law school.*

## **Standard 202. SELF STUDY**

Before each site evaluation visit the dean and faculty of a law school shall develop a written self study, which shall include a mission statement. The self study shall describe the program of legal education, evaluate the strengths and weaknesses of the program in light of the school's mission, set goals to improve the program, and identify the means to accomplish the law school's unrealized goals.

### ***Interpretation 202-1***

*A current self study shall be submitted by a law school seeking provisional approval, a provisionally approved law school before its annual site evaluation, and a fully approved law school before any regular or special site evaluation.*

## **Standard 203. STRATEGIC PLANNING AND ASSESSMENT**

In addition to the self study described in Standard 202, a law school shall demonstrate that it regularly identifies specific goals for improving the law school's program, identifies means to achieve the established goals, assesses its success in realizing the established goals and periodically re-examines and appropriately revises its established goals.

## **Standard 204. GOVERNING BOARD OF AN INDEPENDENT LAW SCHOOL**

A law school that is not part of a university shall be governed by a governing board composed of individuals dedicated to the maintenance of a sound program of legal education.

### ***Interpretation 204-1***

*The governing board of a law school that is not part of a university should authorize the dean to serve as chief executive, or chief academic officer of the law school, or both, and shall define the scope of the dean's authority in compliance with the Standards. The dean shall be responsible to the governing board. The dean may be a member of the board but should not serve as chairperson of the board.*

## **Standard 205. GOVERNING BOARD AND LAW SCHOOL AUTHORITY**

- (a) A governing board may establish general policies that are applicable to a law school if they are consistent with the Standards.
- (b) The dean and faculty shall formulate and administer the educational program of the law school, including curriculum; methods of instruction; admissions; and academic standards for retention, advancement, and graduation of students; and shall recommend the selection, retention, promotion, and tenure (or granting of security of position) of the faculty.

### ***Interpretation 205-1***

*An action of a university committee may violate the Standards if it deprives the dean and faculty of a law school of their appropriate roles for recommending faculty promotion and tenure or security of position.*



**Interpretation 205-2**

*Admission of a student to a law school without the approval of the dean and faculty of the law school violates the Standards.*

**Standard 206. DEAN**

- (a) A law school shall have a full-time dean, selected by the governing board or its designee, to whom the dean shall be responsible.
- (b) A law school shall provide the dean with the authority and support needed to discharge the responsibilities of the position and those contemplated by the Standards.
- (c) Except in extraordinary circumstances, a dean shall also hold appointment as a member of the faculty with tenure.
- (d) The faculty or a representative body of it shall advise, consult, and make recommendations to the appointing authority in the selection of a dean.

**Interpretation 206-1**

*The faculty or a representative body of it should have substantial involvement in the selection of a dean. Except in circumstances demonstrating good cause, a dean should not be appointed or reappointed to a new term over the stated objection of a substantial majority of the faculty.*

**Standard 207. ALLOCATION OF AUTHORITY BETWEEN DEAN AND FACULTY**

The allocation of authority between the dean and the law faculty is a matter for determination by each institution as long as both the dean and the faculty have a significant role in determining educational policy.

**Standard 208. INVOLVEMENT OF ALUMNI, STUDENTS AND OTHERS**

A law school may involve alumni, students, and others in a participatory or advisory capacity; but the dean and faculty shall retain control over matters affecting the educational program of the law school.

**Standard 209. NON-UNIVERSITY AFFILIATED LAW SCHOOLS**

If a law school is not part of a university or, although a part, is physically remote from the rest of the university, the law school should seek to provide its students and faculty with the benefits that usually result from a university connection, such as by enlarging its library collection to include materials generally found only in a university library and by developing working relationships with other educational institutions in the community.

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**Standard 210. LAW SCHOOL-UNIVERSITY RELATIONSHIP**

- (a) If a law school is part of a university, that relationship shall serve to enhance the law school's program.
- (b) If a university's general policies do not adequately facilitate the recruitment and retention of competent law faculty, appropriate separate policies should be established for the law school.
- (c) The resources generated by a law school that is part of a university should be made available to the law school to maintain and enhance its program of legal education.
- (d) A law school shall be given the opportunity to present its recommendations on budgetary matters to the university administration before the budget for the law school is submitted to the governing board for adoption.

**Interpretation 210-1**

*A law school does not comply with the Standards if the charges and costs assessed against the law school's revenue by the university leave the law school with financial resources so inadequate as to have a negative and material effect on the education students receive.*

**Interpretation 210-2**

*The resources generated by a law school that is part of a university should be made available to the law school to maintain and enhance its program of legal education. "Resources generated" includes law school tuition and fees, endowment restricted to the law school, gifts to the law school, and income from grants, contracts, and property of the law school. The university should provide the law school with a satisfactory explanation for any use of resources generated by the law school to support non-law school activities and central university services. In turn, the law school should benefit on a reasonable basis in the allocation of university resources.*

**Standard 211. NON-DISCRIMINATION AND EQUALITY OF OPPORTUNITY**

- (a) A law school shall foster and maintain equality of opportunity in legal education, including employment of faculty and staff, without discrimination or segregation on the basis of race, color, religion, national origin, gender, sexual orientation, age or disability.
- (b) A law school shall not use admission policies or take other action to preclude admission of applicants or retention of students on the basis of race, color, religion, national origin, gender, sexual orientation, age or disability.
- (c) This Standard does not prevent a law school from having a religious affiliation or purpose and adopting and applying policies of admission of students and employment of faculty and staff that directly relate to this affiliation or purpose so long as (i) notice of these policies has been given to applicants, students, faculty, and staff before their affiliation with the law school, and (ii) the religious affiliation, purpose, or policies do not contravene any other Standard, including Standard 405(b) concerning academic freedom. These policies may provide a preference for persons adhering to the religious affiliation or purpose of the law school, but shall not be applied to use admission policies or take other action to preclude admission of applicants or retention

of students on the basis of race, color, religion, national origin, gender, sexual orientation, age or disability. This Standard permits religious affiliation or purpose policies as to admission, retention, and employment only to the extent that these policies are protected by the United States Constitution. It is administered as though the First Amendment of the United States Constitution governs its application.

- (d) Non-discrimination and equality of opportunity in legal education includes equal opportunity to obtain employment. A law school shall communicate to every employer to whom it furnishes assistance and facilities for interviewing and other placement functions the school's firm expectation that the employer will observe the principles of non-discrimination and equality of opportunity on the basis of race, color, religion, national origin, gender, sexual orientation, age and disability in regard to hiring, promotion, retention and conditions of employment.

***Interpretation 211-1***

*Schools may not require applicants, students, faculty or employees to disclose their sexual orientation, although they may provide opportunities for them to do so voluntarily.*

***Interpretation 211-2***

*As long as a school complies with the requirements of Standard 211(c), the prohibition concerning sexual orientation does not require a religiously affiliated school to act inconsistently with the essential elements of its religious values and beliefs. For example, it does not require a school to recognize or fund organizations whose purposes or objectives with respect to sexual orientation conflict with the essential elements of the religious values and beliefs held by the school.*

***Interpretation 211-3***

*Standard 211(d) applies to all employers, including government agencies, to which a school furnishes assistance and facilities for interviewing and other placement services. However, this Standard does not require a law school to implement its terms by excluding any employer unless that employer discriminates unlawfully.*

***Interpretation 211-4***

*The denial by a law school of admission to a qualified applicant is treated as made upon the basis of race, color, religion, national origin, gender, sexual orientation, age or disability if the basis of denial relied upon is an admissions qualification of the school which is intended to prevent the admission of applicants on the basis of race, color, religion, national origin, gender, sexual orientation, age or disability though not purporting to do so.*

***Interpretation 211-5***

*The denial by a law school of employment to a qualified individual is treated as made upon the basis of race, color, religion, national origin, gender, sexual orientation, age or disability if the basis of denial relied upon is an employment policy of the school which is intended to prevent the employment of individuals on the basis of race, color, religion, national origin, gender, sexual orientation, age or disability though not purporting to do so.*

## Standard 212. EQUAL OPPORTUNITY AND DIVERSITY

- (a) Consistent with sound legal education policy and the Standards, a law school shall demonstrate by concrete action a commitment to providing full opportunities for the study of law and entry into the profession by members of underrepresented groups, particularly racial and ethnic minorities, and a commitment to having a student body that is diverse with respect to gender, race, and ethnicity.
- (b) Consistent with sound educational policy and the Standards, a law school shall demonstrate by concrete action a commitment to having a faculty and staff that are diverse with respect to gender, race and ethnicity.

### **Interpretation 212-1**

*The requirement of a constitutional provision or statute that purports to prohibit consideration of gender, race, ethnicity or national origin in admissions or employment decisions is not a justification for a school's non-compliance with Standard 212. A law school that is subject to such constitutional or statutory provisions would have to demonstrate the commitment required by Standard 212 by means other than those prohibited by the applicable constitutional or statutory provisions.*

### **Interpretation 212-2**

*Consistent with the U.S. Supreme Court's decision in Grutter v. Bollinger, 529 U.S. 306 (2003), a law school may use race and ethnicity in its admissions process to promote equal opportunity and diversity. Through its admissions policies and practices, a law school shall take concrete actions to enroll a diverse student body that promotes cross-cultural understanding, helps break down racial and ethnic stereotypes, and enables students to better understand persons of different races, ethnic groups and backgrounds.*

### **Interpretation 212-3**

*This Standard does not specify the forms of concrete actions a law school must take to satisfy its equal opportunity and diversity obligations. The determination of a law school's satisfaction of such obligations is based on the totality of the law school's actions and the results achieved. The commitment to providing full educational opportunities for members of underrepresented groups typically includes a special concern for determining the potential of these applicants through the admission process, special recruitment efforts, and programs that assist in meeting the academic and financial needs of many of these students and that create a more favorable environment for students from underrepresented groups.*

## Standard 213. REASONABLE ACCOMMODATION FOR QUALIFIED INDIVIDUALS WITH DISABILITIES

Assuring equality of opportunity for qualified individuals with disabilities, as required by Standard 211, may require a law school to provide such students, faculty and staff with reasonable accommodations.

### **Interpretation 213-1**

*For the purpose of this Standard and Standard 211, disability is defined as in Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Section 794, as further defined by the regulations on post secondary education, 45 C.F.R. Section 84.3(k)(3) and by the Americans with Disabilities Act, 42 U.S.C. Sections 12101 et seq.*

**Interpretation 213-2**

*As to those matters covered by Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, neither this Standard nor Standard 211 imposes obligations upon law schools beyond those provided by those statutes.*

**Interpretation 213-3**

*Applicants and students shall be individually evaluated to determine whether they meet the academic standards requisite to admission and participation in the law school program. The use of the term "qualified" in the Standard requires a careful and thorough consideration of each applicant and each student's qualifications in light of reasonable accommodations. Reasonable accommodations are those that are consistent with the fundamental nature of the school's program of legal education, that can be provided without undue financial or administrative burden, and that can be provided while maintaining academic and other essential performance standards.*

# CHAPTER 3

## Program of Legal Education

### Standard 301. OBJECTIVES

- (a) A law school shall maintain an educational program that prepares its students for admission to the bar, and effective and responsible participation in the legal profession.
- (b) A law school shall ensure that all students have reasonably comparable opportunities to take advantage of the school's educational program, co-curricular programs, and other educational benefits.

#### *Interpretation 301-1*

*A law school shall maintain an educational program that prepares its students to address current and anticipated legal problems.*

#### *Interpretation 301-2*

*A law school may offer an educational program designed to emphasize certain aspects of the law or the legal profession.*

**Interpretation 301-3**

*Among the factors to be considered in assessing the extent to which a law school complies with this Standard are the rigor of its academic program, including its assessment of student performance, and the bar passage rates of its graduates.*

**Interpretation 301-4**

*Among the factors to consider in assessing compliance with Standard 301(b) are whether students have reasonably comparable opportunities to benefit from regular interaction with full-time faculty and other students, from such co-curricular programs as journals and competition teams, and from special events such as lecture series and short-time visitors.*

**Interpretation 301-5**

*For schools providing more than one enrollment or scheduling option, the opportunities to take advantage of the school's educational program, co-curricular activities, and other educational benefits for students enrolled under one option shall be deemed reasonably comparable to the opportunities of students enrolled under other options if the opportunities are roughly proportional based upon the relative number of students enrolled in various options.*

**Interpretation 301-6 [For further guidance regarding compliance with 301-6 and for the explanation of the application of 301-6 for provisionally approved schools, see Appendix 3.]**

A. A law school's bar passage rate shall be sufficient, for purposes of Standard 301(a), if the school demonstrates that it meets any one of the following tests:

- 1) That for students who graduated from the law school within the five most recently completed calendar years:
  - (a) 75 percent or more of these graduates who sat for the bar passed a bar examination, or
  - (b) in at least three of these calendar years, 75 percent of the students graduating in those years and sitting for the bar have passed a bar examination.

*In demonstrating compliance under sections (1)(a) and (b), the school must report bar passage results from as many jurisdictions as necessary to account for at least 70% of its graduates each year, starting with the jurisdiction in which the highest number of graduates took the bar exam and proceeding in descending order of frequency.*

- 2) That in three or more of the five most recently completed calendar years, the school's annual first-time bar passage rate in the jurisdictions reported by the school is no more than 15 points below the average first-time bar passage rates for graduates of ABA-approved law schools taking the bar examination in these same jurisdictions.

*In demonstrating compliance under section (2), the school must report first-time bar passage data from as many jurisdictions as necessary to account for at least 70 percent of its graduates each year, starting with the jurisdiction in which the highest number of graduates took the bar exam and proceeding in descending order of frequency. When more than one jurisdiction is reported, the weighted average of the results in each of the reported jurisdictions shall be used to determine compliance.*

- B. A school shall be out of compliance with the bar passage portion of 301(a) if it is unable to demonstrate that it meets the requirements of paragraph A (1) or (2).
- C. A school found out of compliance under paragraph B and that has not been able to come into compliance within the two year period specified in Rule 13(b) of the Rules of Procedure for Approval of Law

*Schools, may seek to demonstrate good cause for extending the period the school has to demonstrate compliance by submitting evidence of:*

- (i) The school's trend in bar passage rates for both first-time and subsequent takers: a clear trend of improvement will be considered in the school's favor, a declining or flat trend against it.*
- (ii) The length of time the school's bar passage rates have been below the first-time and ultimate rates established in paragraph A: a shorter time period will be considered in the school's favor, a longer period against it.*
- (iii) Actions by the school to address bar passage, particularly the school's academic rigor and the demonstrated value and effectiveness of the school's academic support and bar preparation programs: value-added, effective, sustained and pervasive actions to address bar passage problems will be considered in the school's favor; ineffective or only marginally effective programs or limited action by the school against it.*
- (iv) Efforts by the school to facilitate bar passage for its graduates who did not pass the bar on prior attempts: effective and sustained efforts by the school will be considered in the school's favor; ineffective or limited efforts by the school against it.*
- (v) Efforts by the school to provide broader access to legal education while maintaining academic rigor: sustained meaningful efforts will be viewed in the school's favor; intermittent or limited efforts against it.*
- (vi) The demonstrated likelihood that the school's students who transfer to other ABA-approved schools will pass the bar examination: transfers by students with a strong likelihood of passing the bar will be considered in the school's favor, providing the school has undertaken counseling and other appropriate efforts to retain its well-performing students.*
- (vii) Temporary circumstances beyond the control of the school, but which the school is addressing: for example, a natural disaster that disrupts the school's operations or a significant increase in the standard for passing the relevant bar examination(s).*
- (viii) Other factors, consistent with a school's demonstrated and sustained mission, which the school considers relevant in explaining its deficient bar passage results and in explaining the school's efforts to improve them.*

## **Standard 302. CURRICULUM**

**(a) A law school shall require that each student receive substantial instruction in:**

- (1) the substantive law generally regarded as necessary to effective and responsible participation in the legal profession;**
- (2) legal analysis and reasoning, legal research, problem solving, and oral communication;**
- (3) writing in a legal context, including at least one rigorous writing experience in the first year and at least one additional rigorous writing experience after the first year;**
- (4) other professional skills generally regarded as necessary for effective and responsible participation in the legal profession; and**
- (5) the history, goals, structure, values, rules and responsibilities of the legal profession and its members.**



(b) A law school shall offer substantial opportunities for:

- (1) live-client or other real-life practice experiences, appropriately supervised and designed to encourage reflection by students on their experiences and on the values and responsibilities of the legal profession, and the development of one's ability to assess his or her performance and level of competence;
- (2) student participation in pro bono activities; and
- (3) small group work through seminars, directed research, small classes, or collaborative work.

**Interpretation 302-1**

*Factors to be considered in evaluating the rigor of writing instruction include: the number and nature of writing projects assigned to students; the opportunities a student has to meet with a writing instructor for purposes of individualized assessment of the student's written products; the number of drafts that a student must produce of any writing project; and the form of assessment used by the writing instructor.*

**Interpretation 302-2**

*Each law school is encouraged to be creative in developing programs of instruction in professional skills related to the various responsibilities which lawyers are called upon to meet, using the strengths and resources available to the school. Trial and appellate advocacy, alternative methods of dispute resolution, counseling, interviewing, negotiating, problem solving, factual investigation, organization and management of legal work, and drafting are among the areas of instruction in professional skills that fulfill Standard 302 (a)(4).*

**Interpretation 302-3**

*A school may satisfy the requirement for substantial instruction in professional skills in various ways, including, for example, requiring students to take one or more courses having substantial professional skills components. To be "substantial," instruction in professional skills must engage each student in skills performances that are assessed by the instructor.*

**Interpretation 302-4**

*A law school need not accommodate every student requesting enrollment in a particular professional skills course.*

**Interpretation 302-5**

*The offering of live-client or real-life experiences may be accomplished through clinics or field placements. A law school need not offer these experiences to every student nor must a law school accommodate every student requesting enrollment in any particular live-client or other real-life practice experience.*

**Interpretation 302-6**

*A law school should involve members of the bench and bar in the instruction required by Standard 302(a)(5).*

**Interpretation 302-7 [Reserved]****Interpretation 302-8**

*A law school shall engage in periodic review of its curriculum to ensure that it prepares the school's graduates to participate effectively and responsibly in the legal profession.*

**Interpretation 302-9**

*The substantial instruction in the history, structure, values, rules, and responsibilities of the legal profession and its members required by Standard 302(a)(5) includes instruction in matters such as the law of lawyering and the Model Rules of Professional Conduct of the American Bar Association.*

**Interpretation 302-10**

*Each law school is encouraged to be creative in developing substantial opportunities for student participation in pro bono activities. Pro bono opportunities should at a minimum involve the rendering of meaningful law-related service to persons of limited means or to organizations that serve such persons; however volunteer programs that involve meaningful services that are not law-related also may be included within the law school's overall program. Law-related pro bono opportunities need not be structured to accomplish any of the professional skills training required by Standard 302(a)(4). While most existing law school pro bono programs include only activities for which students do not receive academic credit, Standard 302(b)(2) does not preclude the inclusion of credit-granting activities within a law school's overall program of pro bono opportunities so long as law-related non-credit bearing initiatives are also part of that program.*

**Standard 303. ACADEMIC STANDARDS AND ACHIEVEMENTS**

- (a) A law school shall have and adhere to sound academic standards, including clearly defined standards for good standing and graduation.
- (b) A law school shall monitor students' academic progress and achievement from the beginning of and periodically throughout their studies.
- (c) A law school shall not continue the enrollment of a student whose inability to do satisfactory work is sufficiently manifest so that the student's continuation in school would inculcate false hopes, constitute economic exploitation, or detrimentally affect the education of other students.

**Interpretation 303-1**

*Scholastic achievement of students shall be evaluated by examinations of suitable length and complexity, papers, projects, or by assessment of performances of students in the role of lawyers.*

**Interpretation 303-2**

*A law school shall provide academic advising to students to communicate effectively to them the school's academic standards and graduation requirements, and guidance regarding course selection and sequencing. Academic advising should include assisting each student with planning a program of study consistent with that student's goals.*

**Interpretation 303-3**

*A law school shall provide the academic support necessary to assure each student a satisfactory opportunity to complete the program, graduate, and become a member of the legal profession. This obligation may require a school to create and maintain a formal academic support program.*

**Standard 304. COURSE OF STUDY AND ACADEMIC CALENDAR**

- (a) A law school shall have an academic year of not fewer than 130 days on which classes are regularly scheduled in the law school, extending into not fewer than eight calendar months. The law school shall provide adequate time for reading periods, examinations, and breaks, but such time does not count toward the 130-day academic year requirement.
- (b) A law school shall require, as a condition for graduation, successful completion of a course of study in residence of not fewer than 58,000 minutes of instruction time, except as otherwise provided. At least 45,000 of these minutes shall be by attendance in regularly scheduled class sessions at the law school.
- (c) A law school shall require that the course of study for the J.D. degree be completed no earlier than 24 months and no later than 84 months after a student has commenced law study at the law school or a law school from which the school has accepted transfer credit.
- (d) A law school shall require regular and punctual class attendance.
- (e) A law school shall not permit a student to be enrolled at any time in coursework that, if successfully completed, would exceed 20 percent of the total coursework required by that school for graduation (or a proportionate number for schools on other academic schedules, such as a quarter system).
- (f) A student may not be employed more than 20 hours per week in any week in which the student is enrolled in more than twelve class hours.

**Interpretation 304-1**

*This Standard establishes a minimum period of academic instruction as a condition for graduation. While the academic year is typically divided into two equal terms of at least thirteen weeks, that equal division is not required. The Standard accommodates deviations from a conventional semester system, including quarter systems, trimesters, and mini-terms.*

**Interpretation 304-2**

*A law school may not count more than five class days each week toward the 130-day requirement.*

**Interpretation 304-3**

*In calculating the 45,000 minutes of "regularly scheduled class sessions" for the purpose of Standard 304(b), the time may include:*

- (a) coursework at a law school for which a student receives credit toward the J.D. degree by the law school, so long as that work itself meets the requirements of Standard 304;
- (b) coursework for which a student receives credit toward the J.D. degree that is work done in a foreign study program that qualifies under Standard 307;
- (c) law school coursework that meets the requirements of Standard 306(c);

- (d) *in a seminar or other upper-level course other than an independent research course, the minutes allocated for preparation of a substantial paper or project if the time and effort required and anticipated educational benefit are commensurate with the credit awarded; and*
- (e) *in a law school clinical course, the minutes allocated for clinical work so long as (i) the clinical course includes a classroom instructional component, (ii) the clinical work is done under the direct supervision of a member of the law school faculty or instructional staff whose primary professional employment is with the law school, and (iii) the time and effort required and anticipated educational benefit are commensurate with the credit awarded.*

*A law school shall not include in the 45,000 minutes required by Standard 304(b) to be by attendance in regularly scheduled class sessions at the law school any other coursework, including but not limited to (i) work qualifying for credit under Standard 305; (ii) coursework completed in another department, school or college of the university with which the law school is affiliated or at another institution of higher learning; and (iii) co-curricular activities such as law review, moot court, and trial competitions.*

#### **Interpretation 304-4**

*Law schools may find the following examples useful. Law schools on a conventional semester system typically require 700 minutes of instruction time per “credit,” exclusive of time for an examination. A quarter hour of credit requires 450 minutes of instruction time, exclusive of time for an examination. To achieve the required total of 58,000 minutes of instruction time, a law school must require at least 83 semester hours of credit, or 129 quarter hours of credit.*

*If a law school on a semester system offers classes in units of 50 minutes per credit, it can provide 700 minutes of instruction in 14 classes. If such a law school offers classes in units of 55 minutes per class, it can provide 700 minutes of instruction in 13 classes. If such a law school offers classes in units of 75 minutes per class, it can provide 700 minutes of instruction in 10 classes.*

*If a law school on a quarter system offers classes in units of 50 minutes per class, it can provide 450 minutes of instruction in 9 classes. If such a law school offers classes in units of 65 minutes per class, it can provide 450 minutes of instruction in 8 classes. If such a law school offers classes in units of 75 minutes per class, it can provide 450 minutes of instruction in 6 classes.*

*In all events, the 130-day requirement of Standard 304(a) and the 58,000-minute requirement of Standard 304(b) should be understood as separate and independent requirements.*

#### **Interpretation 304-5**

*Credit for a J.D. degree shall only be given for course work taken after the student has matriculated in a law school. A law school may not grant credit toward the J.D. degree for work taken in a pre-admission program.*

#### **Interpretation 304-6**

*A law school shall demonstrate that it has adopted and enforces policies insuring that individual students satisfy the requirements of this Standard, including the implementation of policies relating to class scheduling, attendance, and limitation on employment.*

#### **Interpretation 304-7**

*Subject to the provisions of this Interpretation, a law school shall require a student who has completed work in an LL.M. or other post J.D. program to complete all of the work for which it will award the J.D. degree*

*following the student's regular enrollment in the school's J.D. program. A law school may accept transfer credit as otherwise allowed by the Standards.*

*A law school may award credit toward a J.D. degree for work undertaken in a LL.M. or other post-J.D. program offered by it or another law school if:*

- (a) that work was the successful completion of a J.D. course while the student was enrolled in a post-J.D. law program;*
- (b) the law school at which the course was taken has a grading system for LL.M. students in J.D. courses that is comparable to the grading system for J.D. students in the course, and*
- (c) the law school accepting the transfer credit will require that the student successfully complete a course of study that satisfies the requirements of Standards 302(a)-(b) and that meets all of the school's requirement for the awarding of the J.D. degree.*

### **Standard 305. STUDY OUTSIDE THE CLASSROOM**

- (a)** A law school may grant credit toward the J.D. degree for courses or a program that permits or requires student participation in studies or activities away from or outside the law school or in a format that does not involve attendance at regularly scheduled class sessions.
- (b)** Credit granted shall be commensurate with the time and effort required and the anticipated quality of the educational experience of the student.
- (c)** Each student's academic achievement shall be evaluated by a faculty member. For purposes of Standard 305 and its Interpretations, the term "faculty member" means a member of the full-time or part-time faculty. When appropriate a school may use faculty members from other law schools to supervise or assist in the supervision or review of a field placement program.
- (d)** The studies or activities shall be approved in advance and periodically reviewed following the school's established procedures for approval of the curriculum.
- (e)** A field placement program shall include:
  - (1)** a clear statement of the goals and methods, and a demonstrated relationship between those goals and methods to the program in operation;
  - (2)** adequate instructional resources, including faculty teaching in and supervising the program who devote the requisite time and attention to satisfy program goals and are sufficiently available to students;
  - (3)** a clearly articulated method of evaluating each student's academic performance involving both a faculty member and the field placement supervisor;
  - (4)** a method for selecting, training, evaluating, and communicating with field placement supervisors;
  - (5)** periodic on-site visits or their equivalent by a faculty member if the field placement program awards four or more academic credits (or equivalent) for field work in any academic term or if on-site visits or their equivalent are otherwise necessary and appropriate;
  - (6)** a requirement that students have successfully completed one academic year of study prior to participation in the field placement program;

- (7) opportunities for student reflection on their field placement experience, through a seminar, regularly scheduled tutorials, or other means of guided reflection. Where a student can earn four or more academic credits (or equivalent) in the program for fieldwork, the seminar, tutorial, or other means of guided reflection must be provided contemporaneously.

**Interpretation 305-1**

*Activities covered by Standard 305(a) include field placement, moot court, law review, and directed research programs or courses for which credit toward the J.D. degree is granted, as well as courses taken in parts of the college or university outside the law school for which credit toward the J.D. degree is granted.*

**Interpretation 305-2**

*The nature of field placement programs presents special opportunities and unique challenges for the maintenance of educational quality. Field placement programs accordingly require particular attention from the law school and the Accreditation Committee.*

**Interpretation 305-3**

*A law school may not grant credit to a student for participation in a field placement program for which the student receives compensation. This Interpretation does not preclude reimbursement of reasonable out-of-pocket expenses related to the field placement.*

**Interpretation 305-4**

- (a) *A law school that has a field placement program shall develop, publish and communicate to students and field instructors a statement that describes the educational objectives of the program.*
- (b) *In a field placement program, as the number of students involved or the number of credits awarded increases, the level of instructional resources devoted to the program should also increase.*

**Interpretation 305-5**

*Standard 305 by its own force does not allow credit for Distance Education courses.*

**Standard 306. DISTANCE EDUCATION**

- (a) **A law school may offer credit toward the J.D. degree for study offered through distance education consistent with the provisions of this Standard and Interpretations of this Standard. Such credit shall be awarded only if the academic content, the method of course delivery, and the method of evaluating student performance are approved as part of the school's regular curriculum approval process.**
- (b) **Distance education is an educational process characterized by the separation, in time or place, between instructor and student. It includes courses offered principally by means of:**
- (1) **technological transmission, including Internet, open broadcast, closed circuit, cable, microwave, or satellite transmission;**
  - (2) **audio or computer conferencing;**
  - (3) **video cassettes or discs; or**
  - (4) **correspondence.**

- (c) A law school may award credit for distance education and may count that credit toward the 45,000 minutes of instruction required by Standard 304(b) if:
  - (1) there is ample interaction with the instructor and other students both inside and outside the formal structure of the course throughout its duration; and
  - (2) there is ample monitoring of student effort and accomplishment as the course progresses.
- (d) A law school shall not grant a student more than four credit hours in any term, nor more than a total of 12 credit hours, toward the J.D. degree for courses qualifying under this Standard.
- (e) No student shall enroll in courses qualifying for credit under this Standard until that student has completed instruction equivalent to 28 credit hours toward the J.D. degree.
- (f) No credit otherwise may be given toward the J.D. degree for any distance education course.
- (g) A law school shall establish a process that is effective for verifying the identity of students taking distance education courses and protects student privacy. If any additional student charges are associated with verification of student identity, students must be notified at the time of registration or enrollment.

**Interpretation 306-1**

*To allow the Council and the Standards Review Committee to review and adjust this Standard, law schools shall report each year on the distance education courses that they offer.*

**Interpretation 306-2**

*Distance education presents special opportunities and unique challenges for the maintenance of educational quality. Distance education accordingly requires particular attention from the law school and by site visit teams and the Accreditation Committee.*

**Interpretation 306-3**

*Courses in which two-thirds or more of the course instruction consists of regular classroom instruction shall not be treated as "distance education" for purposes of Standards 306(d) and (e) even though they also include substantial on-line interaction or other common components of "distance education" courses so long as such instruction complies with the provisions of subsections (1) and (2) of Standard 306(c).*

**Interpretation 306-4**

*Law schools shall take steps to provide students in distance education courses opportunities to interact with instructors that equal or exceed the opportunities for such interaction with instructors in a traditional classroom setting.*

**Interpretation 306-5**

*Law schools shall have the technological capacity, staff, information resources, and facilities required to provide the support needed for instructors and students involved in distance education at the school.*

**Interpretation 306-6**

*Law schools shall establish mechanisms to assure that faculty who teach distance education courses and students who enroll in them have the skills and access to the technology necessary to enable them to participate effectively.*

**Interpretation 306-7**

*Faculty approval of credit for a distance education course shall include a specific explanation of how the course credit was determined. Credit shall be awarded in a manner consistent with the requirement of Interpretation 304-4 that requires 700 minutes of instruction for each credit awarded.*

**Interpretation 306-8**

*A law school that offers more than an incidental amount of credit for distance education shall adopt a written plan for distance education at the law school and shall periodically review the educational effectiveness of its distance education courses and programs.*

**Interpretation 306-9**

*"Credits" in this Standard means semester hour credits as provided in Interpretation 304-4. Law schools that use quarter hours of credit shall convert these credits in a manner that is consistent with the provisions of Interpretation 304-4.*

**Interpretation 306-10**

*Methods to verify student identity as required in 306(g) include, but are not limited to: (i) a secure login and pass code; (ii) proctored examinations; and (iii) new or other technologies and practices that are effective in verifying student identity. As part of the verification process, a law school must verify that the student who registers for a class is the same student that participates and takes the exam for the class.*

**Standard 307. PARTICIPATION IN STUDIES OR ACTIVITIES IN A FOREIGN COUNTRY**

A law school may grant credit for student participation in studies or activities in a foreign country only if the studies or activities are approved in accordance with the Rules of Procedure and Criteria as adopted by the Council.

**Interpretation 307-1**

*In addition to studies or activities covered by Criteria adopted by the Council, a law school may grant credit for (a) studies or activities in a foreign country that meet the requirements of Standard 305 and (b) brief visits to a foreign country that are part of a law school course approved through the school's regular curriculum approval process.*

**Standard 308. DEGREE PROGRAMS IN ADDITION TO J.D.**

A law school may not establish a degree program other than its J.D. degree program without obtaining the Council's prior acquiescence. A law school may not establish a degree program in addition to its J.D. degree program unless the school is fully approved. The additional degree program may not detract from a law school's ability to maintain a J.D. degree program that meets the requirements of the Standards.

**Interpretation 308-1**

*Reasons for withholding acquiescence in the establishment of an advanced degree program include:*

- (1) *Lack of sufficient full-time faculty to conduct the J.D. degree program;*



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- (2) *Lack of adequate physical facilities, which has a negative and material effect on the education students receive;*
  - (3) *Lack of an adequate law library to support both a J.D. and an advanced degree program; and*
  - (4) *A J.D. degree curriculum lacking sufficient diversity and richness in course offerings.*

***Interpretation 308-2***

*Acquiescence in a degree program other than the first degree in law is not an approval of the program itself, and, therefore, a school may not announce that the program is approved by the American Bar Association.*

# CHAPTER 4

## The Faculty

### Standard 401. QUALIFICATIONS

A law school shall have a faculty whose qualifications and experience are appropriate to the stated mission of the law school and to maintaining a program of legal education consistent with the requirements of Standards 301 and 302. The faculty shall possess a high degree of competence, as demonstrated by its education, experience in teaching or practice, teaching effectiveness, and scholarly research and writing.

### Standard 402. SIZE OF FULL-TIME FACULTY

- (a) A law school shall have a sufficient number of full-time faculty to fulfill the requirements of the Standards and meet the goals of its educational program. The number of full-time faculty necessary depends on:
  - (1) the size of the student body and the opportunity for students to meet individually with and consult faculty members;
  - (2) the nature and scope of the educational program; and

- (3) the opportunities for the faculty adequately to fulfill teaching obligations, conduct scholarly research, and participate effectively in the governance of the law school and in service to the legal profession and the public.
- (b) A full-time faculty member is one whose primary professional employment is with the law school and who devotes substantially all working time during the academic year to the responsibilities described in Standard 404(a), and whose outside professional activities, if any, are limited to those that relate to major academic interests or enrich the faculty member's capacity as a scholar and teacher, are of service to the legal profession and the public generally, and do not unduly interfere with one's responsibility as a faculty member.

### **Interpretation 402-1**

*In determining whether a law school complies with the Standards, the ratio of the number of full-time equivalent students to the number of full-time equivalent faculty members is considered.*

- (1) *In computing the student/faculty ratio, full-time equivalent teachers are those who are employed as full-time teachers on tenure track or its equivalent who shall be counted as one each plus those who constitute "additional teaching resources" as defined below. No limit is imposed on the total number of teachers that a school may employ as additional teaching resources, but these additional teaching resources shall be counted at a fraction of less than 1 and may constitute in the aggregate up to 20 percent of the full-time faculty for purposes of calculating the student/faculty ratio.*
- (A) *Additional teaching resources and the proportional weight assigned to each category include:*
- (i) *teachers on tenure track or its equivalent who have administrative duties beyond those normally performed by full-time faculty members: 0.5;*
  - (ii) *clinicians and legal writing instructors not on tenure track or its equivalent who teach a full load: 0.7; and*
  - (iii) *adjuncts, emeriti faculty who teach, non-tenure track administrators who teach, librarians who teach, and teachers from other units of the university: 0.2.*
- (B) *These norms have been selected to provide a workable framework to recognize the effective contributions of additional teaching resources. To the extent a law school has types or categories of teachers not specifically described above, they shall be counted as appropriate in accordance with the weights specified above. It is recognized that the designated proportional weights may not in all cases reflect the contributions to the law school of particular teachers. In exceptional cases, a school may seek to demonstrate to site evaluation teams and the Accreditation Committee that these proportional weights should be changed to weigh contributions of individual teachers.*
- (2) *For the purpose of computing the student/faculty ratio, a student is considered full-time or part-time as determined by the school, provided that no student who is enrolled in fewer than ten credit hours in a term shall be considered a full-time student, and no student enrolled in more than 13 credit hours shall be considered a part-time student. A part-time student is counted as a two-thirds equivalent student.*
- (3) *If there are graduate or non-degree students whose presence might result in a dilution of J.D. program resources, the circumstances of the individual school are considered to determine the adequacy of the teaching resources available for the J.D. program.*

### **Interpretation 402-2**

*Student/faculty ratios are considered in determining a law school's compliance with the Standards.*

- (1) *A ratio of 20:1 or less presumptively indicates that a law school complies with the Standards. However, the educational effects shall be examined to determine whether the size and duties of the full-time faculty meet the Standards.*
- (2) *A ratio of 30:1 or more presumptively indicates that a law school does not comply with the Standards.*
- (3) *At a ratio of between 20:1 and 30:1 and to rebut the presumption created by a ratio of 30:1 or greater, the examination will take into account the effects of all teaching resources on the school's educational program, including such matters as quality of teaching, class size, availability of small group classes and seminars, student/faculty contact, examinations and grading, scholarly contributions, public service, discharge of governance responsibilities, and the ability of the law school to carry out its announced mission.*

#### **Interpretation 402-3**

*A full-time faculty member who is teaching an additional full-time load at another law school may not be considered as a full-time faculty member at either institution.*

#### **Interpretation 402-4**

*Regularly engaging in law practice or having an ongoing relationship with a law firm or other business creates a presumption that a faculty member is not a full-time faculty member under this Standard. This presumption may be rebutted if the law school is able to demonstrate that the individual has a full-time commitment to teaching, research, and public service, is available to students, and is able to participate in the governance of the institution to the same extent expected of full-time faculty.*

### **Standard 403. INSTRUCTIONAL ROLE OF FACULTY**

- (a) **The full-time faculty shall teach the major portion of the law school's curriculum, including substantially all of the first one-third of each student's coursework.**
- (b) **A law school shall ensure effective teaching by all persons providing instruction to students.**
- (c) **A law school should include experienced practicing lawyers and judges as teaching resources to enrich the educational program. Appropriate use of practicing lawyers and judges as faculty requires that a law school shall provide them with orientation, guidance, monitoring, and evaluation.**

#### **Interpretation 403-1**

*The full-time faculty's teaching responsibility will usually be determined by the proportion of student credit hours taught by full-time faculty in each of the law school's programs or divisions (such as full-time, part-time evening study, and part-time weekend study). For purposes of Standard 403(a), a faculty member is considered full-time if that person's primary professional employment is with the law school.*

#### **Interpretation 403-2**

*Efforts to ensure teaching effectiveness may include: a faculty committee on effective teaching, class visitations, critiques of videotaped teaching, institutional review of student evaluation of teaching, colloquia on effective teaching, and recognition of creative scholarship in law school teaching methodology. A law school shall provide all new faculty members with orientation, guidance, mentoring, and periodic evaluation.*

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**Standard 404. RESPONSIBILITIES OF FULL-TIME FACULTY**

- (a) A law school shall establish policies with respect to a full-time faculty member's responsibilities in teaching, scholarship, service to the law school community, and professional activities outside the law school. The policies need not seek uniformity among faculty members, but should address:
  - (1) Faculty teaching responsibilities, including carrying a fair share of the law school's course offerings, preparing for classes, being available for student consultation, participating in academic advising, and creating an atmosphere in which students and faculty may voice opinions and exchange ideas;
  - (2) Research and scholarship, and integrity in the conduct of scholarship, including appropriate use of student research assistants, acknowledgment of the contributions of others, and responsibility of faculty members to keep abreast of developments in their specialties;
  - (3) Obligations to the law school and university community, including participation in the governance of the law school;
  - (4) Obligations to the profession, including working with the practicing bar and judiciary to improve the profession; and
  - (5) Obligations to the public, including participation in pro bono activities.
- (b) A law school shall evaluate periodically the extent to which each faculty member discharges her or his responsibilities under policies adopted pursuant to Standard 404(a).

**Standard 405. PROFESSIONAL ENVIRONMENT**

- (a) A law school shall establish and maintain conditions adequate to attract and retain a competent faculty.
- (b) A law school shall have an established and announced policy with respect to academic freedom and tenure of which Appendix 1 herein is an example but is not obligatory.
- (c) A law school shall afford to full-time clinical faculty members a form of security of position reasonably similar to tenure, and non-compensatory perquisites reasonably similar to those provided other full-time faculty members. A law school may require these faculty members to meet standards and obligations reasonably similar to those required of other full-time faculty members. However, this Standard does not preclude a limited number of fixed, short-term appointments in a clinical program predominantly staffed by full-time faculty members, or in an experimental program of limited duration.
- (d) A law school shall afford legal writing teachers such security of position and other rights and privileges of faculty membership as may be necessary to (1) attract and retain a faculty that is well qualified to provide legal writing instruction as required by Standard 302(a)(3), and (2) safeguard academic freedom.

**Interpretation 405-1**

*A fixed limit on the percent of a law faculty that may hold tenure under any circumstances violates the Standards.*

**Interpretation 405-2**

*A law faculty as professionals should not be required to be a part of the general university bargaining unit.*

**Interpretation 405-3**

*A law school shall have a comprehensive system for evaluating candidates for promotion and tenure or other forms of security of position, including written criteria and procedures that are made available to the faculty.*

**Interpretation 405-4**

*A law school not a part of a university in considering and deciding on appointment, termination, promotion, and tenure of faculty members should have procedures that contain the same principles of fairness and due process that should be employed by a law school that is part of a university. If the dean and faculty have made a recommendation that is unfavorable to a candidate, the candidate should be given an opportunity to appeal to the president, chairman, or governing board.*

**Interpretation 405-5**

*If the dean and faculty have determined the question of responsibility for examination schedules and the schedule has been announced by the authority responsible for it, it is not a violation of academic freedom for a member of the law faculty to be required to adhere to the schedule.*

**Interpretation 405-6**

*A form of security of position reasonably similar to tenure includes a separate tenure track or a program of renewable long-term contracts. Under a separate tenure track, a full-time clinical faculty member, after a probationary period reasonably similar to that for other full-time faculty, may be granted tenure. After tenure is granted, the faculty member may be terminated only for good cause, including termination or material modification of the entire clinical program.*

*A program of renewable long-term contracts shall provide that, after a probationary period reasonably similar to that for other full-time faculty, during which the clinical faculty member may be employed on short-term contracts, the services of a faculty member in a clinical program may be either terminated or continued by the granting of a long-term renewable contract. For the purposes of this Interpretation, "long-term contract" means at least a five-year contract that is presumptively renewable or other arrangement sufficient to ensure academic freedom. During the initial long-term contract or any renewal period, the contract may be terminated for good cause, including termination or material modification of the entire clinical program.*

**Interpretation 405-7**

*In determining if the members of the full-time clinical faculty meet standards and obligations reasonably similar to those provided for other full-time faculty, competence in the areas of teaching and scholarly research and writing should be judged in terms of the responsibilities of clinical faculty. A law school should develop criteria for retention, promotion, and security of employment of full-time clinical faculty.*

**Interpretation 405-8**

*A law school shall afford to full-time clinical faculty members participation in faculty meetings, committees, and other aspects of law school governance in a manner reasonably similar to other full-time faculty members. This Interpretation does not apply to those persons referred to in the last sentence of Standard 405(c).*

**Interpretation 405-9**

*Subsection (d) of this Standard does not preclude the use of short-term contracts for legal writing teachers, nor does it preclude law schools from offering fellowship programs designed to produce candidates for full-time teaching by offering individuals supervised teaching experience.*

# CHAPTER 5

## Admissions and Student Services

### Standard 501. ADMISSIONS

- (a) A law school shall maintain sound admission policies and practices, consistent with the objectives of its educational program and the resources available for implementing those objectives.
- (b) A law school shall not admit applicants who do not appear capable of satisfactorily completing its educational program and being admitted to the bar.

#### ***Interpretation 501-1***

*Sound admissions policies and practices may include consideration of admission test scores, undergraduate course of study and grade point average, extracurricular activities, work experience, performance in other graduate or professional programs, relevant demonstrated skills, and obstacles overcome.*

#### ***Interpretation 501-2***

*A law school's admission policies shall be consistent with Standards 211 and 212.*



**Interpretation 501-3**

*Among the factors to consider in assessing compliance with Standard 501(b) are the academic and admission test credentials of the law school's entering students, the academic attrition rate of the law school's students, the bar passage rate of its graduates, and the effectiveness of the law school's academic support program.*

**Interpretation 501-4**

*A law school may not permit financial considerations detrimentally to affect its admission and retention policies and their administration. A law school may face a conflict of interest whenever the exercise of sound judgment in the application of admission policies or academic standards and retention policies might reduce enrollment below the level necessary to support the program.*

**Standard 502. EDUCATIONAL REQUIREMENTS**

- (a) A law school shall require for admission to its J.D. degree program a bachelor's degree, or successful completion of three-fourths of the work acceptable for a bachelor's degree, from an institution that is accredited by an accrediting agency recognized by the Department of Education.
- (b) In an extraordinary case, a law school may admit to its J.D. degree program an applicant who does not possess the educational requirements of subsection (a) if the applicant's experience, ability, and other characteristics clearly show an aptitude for the study of law. The admitting officer shall sign and place in the admittee's file a statement of the considerations that led to the decision to admit the applicant.

**Interpretation 502-1**

*Before an admitted student registers, or within a reasonable time thereafter, a law school shall have on file the student's official transcript showing receipt of a bachelor's degree, if any, and all academic work undertaken. "Official transcript" means a transcript certified by the issuing school to the admitting school or delivered to the admitting school in a sealed envelope with seal intact. A copy supplied by the Law School Data Assembly Service is not an official transcript, even though it is adequate for preliminary determination of admission.*

**Standard 503. ADMISSION TEST**

A law school shall require each applicant for admission as a first year J.D. student to take a valid and reliable admission test to assist the school and the applicant in assessing the applicant's capability of satisfactorily completing the school's educational program. In making admissions decisions, a law school shall use the test results in a manner that is consistent with the current guidelines regarding proper use of the test results provided by the agency that developed the test.

**Interpretation 503-1**

*A law school that uses an admission test other than the Law School Admission Test sponsored by the Law School Admission Council shall establish that such other test is a valid and reliable test to assist the school in assessing an applicant's capability to satisfactorily complete the school's educational program.*

**Interpretation 503-2**

*This Standard does not prescribe the particular weight that a law school should give to an applicant's admission test score in deciding whether to admit or deny admission to the applicant.*

**Interpretation 503-3**

*A pre-admission program of coursework taught by members of the law school's full-time faculty and culminating in an examination or examinations, offered to some or all applicants prior to a decision to admit to the J.D. program, also may be useful in assessing the capability of an applicant to satisfactorily complete the school's educational program, to be admitted to the bar, and to become a competent professional.*

**Interpretation 503-4**

*The "Cautionary Policies Concerning LSAT Scores and Related Services" published by the Law School Admission Council is an example of the testing agency guidelines referred to in Standard 503. [See Appendix 2]*

**Standard 504. CHARACTER AND FITNESS**

- (a) A law school shall advise each applicant that there are character, fitness and other qualifications for admission to the bar and encourage the applicant, prior to matriculation, to determine what those requirements are in the state(s) in which the applicant intends to practice. The law school should, as soon after matriculation as is practicable, take additional steps to apprise entering students of the importance of determining the applicable character, fitness and other qualifications.
- (b) The law school may, to the extent it deems appropriate, adopt such tests, questionnaires, or required references as the proper admission authorities may find useful and relevant, in determining the character, fitness or other qualifications of the applicants to the law school.
- (c) If a law school considers an applicant's character, fitness or other qualifications, it shall exercise care that the consideration is not used as a reason to deny admission to a qualified applicant because of political, social, or economic views that might be considered unorthodox.

**Standard 505. PREVIOUSLY DISQUALIFIED APPLICANT**

A law school may admit or readmit a student who has been disqualified previously for academic reasons upon an affirmative showing that the student possesses the requisite ability and that the prior disqualification does not indicate a lack of capacity to complete the course of study at the admitting school. In the case of admission to a law school other than the disqualifying school, this showing shall be made either by a letter from the disqualifying school or, if two or more years have elapsed since that disqualification, by the nature of interim work, activity, or studies indicating a stronger potential for law study. For every admission or readmission of a previously disqualified individual, a statement of the considerations that led to the decision shall be placed in the admittee's file.

**Interpretation 505-1**

*The two year period begins on the date of the original determination to disqualify the student for academic reasons.*

**Interpretation 505-2**

*A student who enrolled in a pre-admission program but was not granted admission is not a student who was disqualified for academic reasons under this Standard.*

**Standard 506. APPLICANTS FROM LAW SCHOOLS NOT APPROVED BY THE ABA**

- (a) A law school may admit a student with advanced standing and allow credit for studies at a law school in the United States that is not approved by the American Bar Association (“non-ABA approved law school”) if:
  - (1) the non-ABA approved law school has been granted the power to confer the J.D. degree by the appropriate governmental authority in the unapproved law school’s jurisdiction, or graduates of the non-ABA approved law school are permitted to sit for the bar examination in the jurisdiction in which the school is located;
  - (2) the studies were “in residence” as provided in Standard 304(b), or qualify for credit under Standard 305 or Standard 306; and (3) the content of the studies was such that credit therefore would have been granted towards satisfaction of degree requirements at the admitting school.
- (b) Advanced standing and credit hours granted for study at a non-ABA approved law school may not exceed one-third of the total required by an admitting school for its J.D. degree.

**Standard 507. APPLICANTS FROM FOREIGN LAW SCHOOLS**

- (a) A law school may admit a student with advanced standing and allow credit for studies at a law school outside the United States if:
  - (1) the studies were “in residence” as provided in Standard 304, or qualify for credit under Standard 305;
  - (2) the content of the studies was such that credit therefore would have been granted towards satisfaction of degree requirements at the admitting school; and
  - (3) the admitting school is satisfied that the quality of the educational program at the foreign law school was at least equal to that required by an approved school.
- (b) Advanced standing and credit hours granted for foreign study may not exceed one-third of the total required by an admitting school for its J.D. degree.

**Interpretation 507-1**

*This Standard applies only to graduates of foreign law schools or students enrolled in a first degree granting law program in a foreign educational institution.*

### **Standard 508. ENROLLMENT OF NON-DEGREE CANDIDATES**

Without requiring compliance with its admission standards and procedures, a law school may enroll individuals in a particular course or limited number of courses, as auditors, non-degree candidates, or candidates for a degree other than a law degree, provided that such enrollment does not adversely affect the quality of the course or the law school program.

### **Standard 509. REQUIRED DISCLOSURES**

- (a) All information that a law school reports, publicizes or distributes shall be complete, accurate and not misleading to a reasonable law school student or applicant. Schools shall use due diligence in obtaining and verifying such information. Violations of these obligations may result in sanctions under Rule 16 of the Rules of Procedure for Approval of Law School.
- (b) A law school shall publicly disclose on its website, in the form and manner and for the time frame designated by the Council, the following information:
  - (1) admissions data;
  - (2) tuition and fees, living costs, and financial aid;
  - (3) conditional scholarships;
  - (4) enrollment data, including academic, transfer, and other attrition;
  - (5) numbers of full-time and part-time faculty, professional librarians, and administrators;
  - (6) class sizes for first year and upper class courses; number of seminar, clinical and co-curricular offerings;
  - (7) employment outcomes; and
  - (8) bar passage data.
- (c) A law school shall publicly disclose on its website, in a readable and comprehensive manner, the following information on a current basis:
  - (1) refund policies;
  - (2) curricular offerings, academic calendar, and academic requirements; and
  - (3) policies regarding the transfer of credit earned at another institution of higher education. The law school's transfer of credit policies must include, at a minimum:
    - (i) A statement of the criteria established by the law school regarding the transfer of credit earned at another institution; and
    - (ii) A list of institutions, if any, with which the law school has established an articulation agreement.
- (d) A law school shall distribute the data required under Standard 509(b)(3) to all applicants being offered conditional scholarships at the time the scholarship offer is extended.

- (e) If a law school elects to make a public disclosure of its status as a law school approved by the Council, it shall do so accurately and shall include the name and contact information of the Council.

**Interpretation 509-1**

*Current curricular offerings, for the purposes of Standard 509(c), are only those courses offered in the current and past two academic years.*

**Interpretation 509-2**

*A law school may publicize or distribute information in addition to that required by this Standard, including but not limited to the employment outcomes of its graduates, as long as such information complies with the requirements of subsection (a).*

**Interpretation 509-3**

*A conditional scholarship is any financial aid award, the retention of which is dependent upon the student maintaining a minimum grade point average or class standing, other than that ordinarily required to remain in good academic standing.*

## **Standard 510. STUDENT LOAN PROGRAMS**

**A law school shall take reasonable steps to minimize student loan defaults, including provision of debt counseling at the inception of a student's loan obligations and prior to graduation.**

**Interpretation 510-1**

*The student loan default rates of a law school's graduates, including any results of financial or compliance audits and reviews, shall be considered in assessing the extent to which a law school complies with this Standard.*

**Interpretation 510-2**

*For law schools not affiliated with a university, the school's student loan cohort default rate shall be sufficient, for purposes of Standard 510, if it is not greater than 10% for any of the three most recently published annual cohort default rates. If the school's cohort student loan default rate is not sufficient under this Interpretation, the school must submit a plan for approval by the Accreditation Committee for coming into compliance with this requirement.*

*Failure to comply with title IV or having a student loan cohort default rate greater than the rate permitted by title IV is cause for review of a law school's overall compliance with the Standards. Schools shall demonstrate that they have resolved all areas of deficiency identified in financial or compliance audits, program reviews or other information provided by the United States Department of Education.*

**Interpretation 510-3**

*The law school's obligation shall be satisfied if the university, of which the law school is a part, provides to law students the reasonable steps described in this Standard.*

### **Standard 511. STUDENT SUPPORT SERVICES**

A law school shall provide all its students, regardless of enrollment or scheduling option, with basic student services, including maintenance of accurate student records, academic advising and counseling, financial aid counseling, and an active career counseling service to assist students in making sound career choices and obtaining employment. If a law school does not provide these types of student services directly, it must demonstrate that its students have reasonable access to such services from the university of which it is a part or from other sources.

### **Standard 512. STUDENT COMPLAINTS IMPLICATING COMPLIANCE WITH THE STANDARDS**

- (a) A law school shall establish, publish, and comply with policies with respect to addressing student complaints.
- (b) A law school shall maintain a record of student complaints submitted during the most recent accreditation period. The record shall include the resolution of the complaints.
- (c) A “complaint” is a communication in writing that seeks to bring to the attention of the law school a significant problem that directly implicates the school’s program of legal education and its compliance with the Standards.

#### ***Interpretation 512-1***

*A law school’s policies on student complaints must address, at a minimum, procedures for filing and addressing complaints, appeal rights if any, and timelines.*

# CHAPTER 6

## Library and Information Resources

### Standard 601. GENERAL PROVISIONS

- (a) A law school shall maintain a law library that is an active and responsive force in the educational life of the law school. A law library's effective support of the school's teaching, scholarship, research and service programs requires a direct, continuing and informed relationship with the faculty, students and administration of the law school.
- (b) A law library shall have sufficient financial resources to support the law school's teaching, scholarship, research, and service programs. These resources shall be supplied on a consistent basis.
- (c) A law school shall keep its library abreast of contemporary technology and adopt it when appropriate.

#### ***Interpretation 601-1***

*Cooperative agreements may be considered when determining whether faculty and students have efficient and effective access to the resources necessary to meet the law school's educational needs. Standard 601 is not satisfied solely by arranging for students and faculty to have access to other law libraries within the region, or by providing electronic access.*

## Standard 602. ADMINISTRATION

- (a) A law school shall have sufficient administrative autonomy to direct the growth and development of the law library and to control the use of its resources.
- (b) The dean and the director of the law library, in consultation with the faculty of the law school, shall determine library policy.
- (c) The director of the law library and the dean are responsible for the selection and retention of personnel, the provision of library services, and collection development and maintenance.
- (d) The budget for the law library should be determined as part of, and administered in the same manner as, the law school budget.

### *Interpretation 602-1*

*This Standard recognizes that substantial operating autonomy rests with the dean, the director of the law library and the faculty of a law school with regard to the operation of the law school library. The Standards require that decisions that materially affect the law library be enlightened by the needs of the law school educational program. This envisions law library participation in university library decisions that may affect the law library. While the preferred structure for administration of a law school library is one of law school administration, a law school library may be administered as part of a general university library system if the dean, the director of the law library, and faculty are responsible for the determination of basic law library policies.*

## Standard 603. DIRECTOR OF THE LAW LIBRARY

- (a) A law library shall be administered by a full-time director whose principal responsibility is the management of the law library.
- (b) The selection and retention of the director of the law library shall be determined by the law school.
- (c) A director of a law library should have a law degree and a degree in library or information science and shall have a sound knowledge of and experience in library administration.
- (d) Except in extraordinary circumstances, a law library director shall hold a law faculty appointment with security of faculty position.

### *Interpretation 603-1*

*The director of the law library is responsible for all aspects of the management of the law library including budgeting, staff, collections, services and facilities.*

### *Interpretation 603-2*

*The dean and faculty of the law school shall select the director of the law library.*

### *Interpretation 603-3*

*The granting of faculty appointment to the director of the law library under this Standard normally is a tenure or tenure-track appointment. If a director is granted tenure, this tenure is not in the administrative position of director.*



**Interpretation 603-4**

*It is not a violation of Standard 603(a) for the director of the law library also to have other administrative or teaching responsibilities, provided sufficient resources and staff support are available to ensure effective management of library operations.*

**Standard 604. PERSONNEL**

**The law library shall have a competent staff, sufficient in number to provide appropriate library and informational resource services.**

**Interpretation 604-1**

*Factors relevant to the number of librarians and informational resource staff needed to meet this Standard include the following: the number of faculty and students, research programs of faculty and students, a dual division program in the school, graduate programs of the school, size and growth rate of the collection, range of services offered by the staff, formal teaching assignments of staff members, and responsibilities for providing informational resource services.*

**Standard 605. SERVICES**

**A law library shall provide the appropriate range and depth of reference, instructional, bibliographic, and other services to meet the needs of the law school's teaching, scholarship, research, and service programs.**

**Interpretation 605-1**

*Appropriate services include having adequate reference services, providing access (such as indexing, cataloging, and development of search terms and methodologies) to the library's collection and other information resources, offering interlibrary loan and other forms of document delivery, enhancing the research and bibliographic skills of students, producing library publications, and creating other services to further the law school's mission.*

**Standard 606. COLLECTION**

- (a) The law library shall provide a core collection of essential materials accessible in the law library.
- (b) In addition to the core collection of essential materials, a law library shall also provide a collection that, through ownership or reliable access,
  - (1) meets the research needs of the law school's students, satisfies the demands of the law school curriculum, and facilitates the education of its students;
  - (2) supports the teaching, scholarship, research, and service interests of the faculty; and
  - (3) serves the law school's special teaching, scholarship, research, and service objectives.
- (c) A law library shall formulate and periodically update a written plan for development of the collection.

- (d) A law library shall provide suitable space and adequate equipment to access and use all information in whatever formats are represented in the collection.

**Interpretation 606-1**

*All materials necessary to the programs of the law school shall be complete and current and in sufficient quantity or with sufficient access to meet faculty and student needs. The library shall ensure continuing access to all information necessary to the law school's programs.*

**Interpretation 606-2**

*The appropriate mixture of collection formats depends on the needs of the library and its clientele. A collection that consists of a single format may violate Standard 606.*

**Interpretation 606-3**

*Agreements for the sharing of information resources, except for the core collection, satisfy Standard 606 if:*

- (1) the agreements are in writing; and*
- (2) the agreements provide faculty and students with the ease of access and availability necessary to support the programs of the law school.*

**Interpretation 606-4**

*Off-site storage for non-essential material does not violate the Standards so long as the material is organized and readily accessible in a timely manner.*

**Interpretation 606-5**

*A law library core collection shall include the following:*

- (1) all reported federal court decisions and reported decisions of the highest appellate court of each state;*
- (2) all federal codes and session laws, and at least one current annotated code for each state;*
- (3) all current published treaties and international agreements of the United States;*
- (4) all current published regulations (codified and uncoded) of the federal government and the codified regulations of the state in which the law school is located;*
- (5) those federal and state administrative decisions appropriate to the programs of the law school;*
- (6) U.S. Congressional materials appropriate to the programs of the law school;*
- (7) significant secondary works necessary to support the programs of the law school, and*
- (8) those tools, such as citators and periodical indexes, necessary to identify primary and secondary legal information and update primary legal information.*

**Interpretation 606-6**

*The dean, faculty, and director of the law library should cooperate in formulation of the collection development plan.*

**Interpretation 606-7**

*This Standard requires the law library to furnish the equipment to print microform and electronic documents and to view and listen to audio-visual materials in the collection.*

# CHAPTER 7

## Facilities

### Standard 701. GENERAL REQUIREMENTS

A law school shall have physical facilities that are adequate both for its current program of legal education and for growth anticipated in the immediate future.

#### *Interpretation 701-1*

*Inadequate physical facilities are those that have a negative and material effect on the education students receive or fail to provide reasonable access for persons with disabilities. If equal access for persons with disabilities is not readily achievable, the law school shall provide reasonable accommodation to such persons.*

#### *Interpretation 701-2*

*Adequate physical facilities shall include:*

- (1) suitable class and seminar rooms in sufficient number and size to permit reasonable scheduling of all classes and seminars;*
- (2) suitable space for conducting its professional skills courses and programs, including clinical, pretrial, trial, and appellate programs;*

- (3) *an office for each full-time faculty member adequate for faculty study and for faculty-student conferences, and sufficient office space for part-time faculty members adequate for faculty-student conferences;*
- (4) *space for co-curricular, as opposed to extra-curricular, activities as defined by the law school;*
- (5) *suitable space for all staff; and*
- (6) *suitable space for equipment and records in proximity to the individuals and offices served.*

**Interpretation 701-3**

*To obtain full approval, a law school's facilities shall be completed and occupied by the law school; plans or construction in progress are insufficient.*

**Interpretation 701-4**

*A law school must demonstrate that it is and will be housed in facilities that are adequate to carry out its program of legal education. If facilities are leased or financed, factors relevant to whether the law school is or will be housed in facilities that are adequate include overall lease or financing terms and duration, lease renewal terms, termination or foreclosure provisions, and the security of the school's interest.*

**Interpretation 701-5**

*A law school's physical facilities should be under the exclusive control and reserved for the exclusive use of the law school. If the facilities are not under the exclusive control of the law school or are not reserved for its exclusive use, the arrangements shall permit proper scheduling of all law classes and other law school activities.*

**Standard 702. LAW LIBRARY**

The physical facilities for the law library shall be sufficient in size, location, and design in relation to the law school's programs and enrollment to accommodate the law school's students and faculty and the law library's services, collections, staff, operations, and equipment.

**Interpretation 702-1**

*A law library shall have sufficient seating to meet the needs of the law school's students and faculty.*

**Standard 703. RESEARCH AND STUDY SPACE**

A law school shall provide, on site, sufficient quiet study and research seating for its students and faculty. A law school should provide space that is suitable for group study and other forms of collaborative work.

**Standard 704. TECHNOLOGICAL CAPACITIES**

A law school shall have the technological capacities that are adequate for both its current program of legal education and for program changes anticipated in the immediate future.

**Interpretation 704-1**

*Inadequate technological capacities are those that have a negative and material effect on the education students receive.*

**Interpretation 704-2**

*Adequate technological capacity shall include:*

- (1) sufficient and up-to-date hardware and software resources and infrastructure to support the teaching, scholarship, research, service and administrative needs of the school;*
- (2) sufficient staff support and space for staff operations;*
- (3) sufficient financial resources to adopt and maintain new technology as appropriate.*

# **CHAPTER 8**

## **Council Authority, Variances and Amendments**

### **Standard 801. COUNCIL AUTHORITY**

The Council shall have the authority to adopt, revise, amend or repeal the Standards, Interpretations and Rules. A decision of the Council to adopt, revise, amend or repeal the Standards, Interpretations or Rules shall not become effective until it has been reviewed by the House. Review of such decisions by the House shall be conducted pursuant to the procedures set forth in Standard 803 and the Rules of Procedure of the House.

### **Standard 802. VARIANCE**

A law school proposing to offer a program of legal education a portion of which is inconsistent with a Standard may apply for a variance. If the Council finds that the proposal is nevertheless consistent with the general purposes of the Standards, the Council may grant the variance, may impose conditions, and shall impose time limits it considers appropriate. Council may terminate a variance prior to the end of the stated time limit if the school fails to comply with any conditions imposed by the Council. As a general rule, the duration of a variance should not exceed three years.

**Interpretation 802-1**

*Variances are generally limited to proposals based on one or more of the following:*

- (a) *a response to extraordinary circumstances that would create extreme hardship for students or for an approved law school; or*
- (b) *an experimental program based on all of the following:*
  - (1) *good reason to believe that there is a likelihood of success;*
  - (2) *high quality experimental design;*
  - (3) *clear and measurable criteria for assessing the success of the experimental program;*
  - (4) *strong reason to believe that the benefits of the experiment will be greater than its risks; and*
  - (5) *adequately informed participation by students involved in the experiment.*

**Interpretation 802-2**

*A school applying for a variance has the burden of demonstrating that the variance should be granted. The application should include, at a minimum, the following:*

- (a) *a precise statement of the variance sought;*
- (b) *an explanation of the bases and reasons for the variance; and*
- (c) *additional information needed to support the application.*

**Interpretation 802-3**

*The Chair of the Accreditation Committee or the Consultant may appoint one or more fact finders to elicit facts relevant to consideration of the application for a variance. Thus an application for a variance must be filed well in advance of consideration of the application by the Accreditation Committee and the Council.*

**Interpretation 802-4**

*The Consultant, the Accreditation Committee or the Council may from time to time request written reports from the school concerning the variance.*

**Interpretation 802-5**

*Variances are school-specific and based on the circumstances existing at the law school filing the request.*

## **Standard 803. AMENDMENT OF STANDARDS, INTERPRETATIONS AND RULES**

- (a) **A decision by the Council to adopt, revise, amend or repeal the Standards, Interpretations or Rules does not become effective until it has been reviewed by the House. After the meeting of the Council at which it decides to adopt, revise, amend or repeal the Standards, Interpretations or Rules, the Chairperson of the Council shall furnish a written statement of the Council action to the House.**
- (b) **Once the action of the Council is placed on the calendar of a meeting of the House, the House shall at that meeting either agree with the Council's decision or refer the decision back to the Council for further consideration. If the House refers a decision back to the Council, the House shall provide the Council with a statement setting forth the reasons for its referral.**

- (c) A decision by the Council to adopt, revise, amend or repeal the Standards, Interpretations or Rules is subject to a maximum of two referrals back to the Council by the House. If the House refers a Council decision back to the Council twice, then the decision of the Council following the second referral will be final and will not be subject to further review by the House.
- (d) Proposals for amendments to the Standards, Interpretations or Rules may be submitted to the Consultant, who shall refer the proposal to the Standards Review Committee or other appropriate committee. The committee to which any such proposal is referred shall report its recommendation concerning that proposal to the Council within twelve months after the proposal had been referred to the Committee.



# Key Word Index

Note: In some cases, simply the corresponding Standard(s) is given to note the section wherein the keyword can be found. One should also refer to the corresponding Interpretations for additional information. Standard numbers for definitions are in **boldface**.

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degree completion	304(c)
84 months	
degree completion	304(c)
130 days	304(a), I 304-2
45,000 minutes	304(b), I 304-3
58,000 minutes	304(b)
AAUP Academic Freedom Statement	Appendix 1, <i>See also</i> Academic Freedom
Academic advising	I 105-4, I 303-2, 404, 511 <i>See also</i> Criteria for Approval of Foreign Summer and Intersession Programs, Criteria for Student Study at a Foreign Institution, Criteria for Approval of Semester and Year-Long Study Abroad Programs, pp. 91-114.
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	<i>See also</i> Criteria for Approval of Foreign Summer Programs, Criteria for Student Study at a Foreign Institution, Criteria for Approval of Semester and Year-Long Study Abroad Programs, pp. 91-114.

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## A. Introduction

### Rule 1. Definitions As Used in These Rules

- (a) “Association” means the American Bar Association.
- (b) “Committee” means the Accreditation Committee of the Section.
- (c) “Consultant” means the Consultant on Legal Education to the American Bar Association.
- (d) “Council” means Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association.
- (e) “Department of Education” means the United States Department of Education.
- (f) “House” means the House of Delegates of the American Bar Association.
- (g) “J.D. degree” means the first professional degree in law granted by a law school.
- (h) “President” means the chief executive officer of the university or, if the university has more than one administratively independent unit, of the independent unit.
- (i) “Probation” is a public status indicating that the law school is in substantial noncompliance with the Standards and is at risk of being removed from the list of approved law schools.
- (j) “Rules” means the Rules of Procedure for Approval of Law Schools by the American Bar Association.
- (k) “Section” means the Section of Legal Education and Admissions to the Bar of the American Bar Association.
- (l) “Standards” means the Standards for Approval of Law Schools by the American Bar Association, and the associated Interpretations.
- (m) “University” means a post-secondary educational institution, whether called university, college, or other similar name, that confers a baccalaureate degree and, in some cases, may grant other degrees.

## B. General Provisions

### Rule 2. Site Evaluation

- (a) When a site evaluation is required under these Rules, the Consultant shall arrange for a visit by a team of qualified and objective persons.
- (b) Before the site evaluation, the law school shall furnish to the Consultant and members of the site evaluation team a completed application (if the school is applying for provisional or full approval), the completed site evaluation questionnaire, and the current self study. Complaints received under Rule 24 and not dismissed by the Consultant or the Accreditation Committee shall be supplied by the Consultant to the site evaluation team.
- (c) The Consultant shall schedule the site evaluation of the law school to take place during the academic year at a time when regular academic classes are being conducted. In the case of a law school seeking provisional or full approval, such visit shall take place during the academic year in which the application is received.
- (d) Following a site evaluation, the team shall promptly prepare and submit to the Consultant a written report based upon the site evaluation. The team shall not determine compliance or non-compliance with the Standards, but shall report facts and observations that will enable the Committee and Council to determine compliance.
- (e) After reviewing the report and conforming it to the requirements of Rule 2(d), the Consultant shall transmit the report to the president and the dean of the law school in order to provide an opportunity to make factual corrections and comments. The school shall be given at least thirty (30) days to prepare its response to the report, unless the school consents to a shorter time period. The thirty-day period shall run from the date on which the Consultant transmits the report to the school.
- (f) Following receipt of the school's response to the site evaluation report, the Consultant shall forward a copy of the report with the school's response to members of the Accreditation Committee and the site evaluation team.

### Rule 3. Accreditation Committee Consideration

- (a) Upon completion of the procedures provided in Rule 2, the Accreditation Committee shall consider the application or the status of the law school based upon a record consisting of the law school's application (in the case of a school seeking provisional or full approval), the site evaluation report, any written material submitted by the school, and other relevant information.
- (b) The Committee shall make findings of fact and state conclusions with respect to the law school's compliance with the Standards. If the matter falls within the provisions of Rule 5(a), the Committee also shall make recommendations to the Council. The Committee also may request (1) that the law school provide the Committee with specific information or (2) that the law school take specific actions, including reporting back to the Committee concerning actions that the law school has taken to bring itself into compliance with the Standards.

- (c) In addition to the duties of the Committee set forth in subparts (a) and (b), the Committee shall monitor the accreditation status of law schools on an interim basis using a school's annual questionnaire submissions, other information requested by the Committee, or information otherwise deemed reliable by the Committee for its review. In conducting interim monitoring of law schools, the Committee shall consider at a minimum: the resources available to the law school [Standard 201], efforts and effectiveness in facilitating student career placement [Standard 511], bar passage [Interpretation 301-6], and student admissions including student credentials, size of enrollment and academic attrition [Standard 501]. Other Standards and Interpretations may be considered as the Committee deems appropriate. This monitoring may result in action by the Committee, including requests for additional information from a school, appointment of a fact finder or other mechanism to ensure compliance by schools with one or more Standards.
- (d) The Consultant shall inform the president and the dean of the law school of the Committee's decision or recommendation in writing.

#### **Rule 4. Application for Provisional or Full Approval**

- (a) An applicant law school shall submit its application for provisional or full approval to the Consultant after the beginning of fall term classes but no later than October 15 in the academic year in which the law school is seeking approval. If the school is seeking a site evaluation visit in the fall academic term it shall also file, during the month of March of the preceding academic year, a written notice of its intent to do so. A provisionally approved law school may apply for full approval no earlier than two years after the date that provisional approval was granted.
- (b) The application must contain:
  - (1) A letter from the president and the dean of the law school stating that they have read and carefully considered the Standards, have answered in detail the questions asked in the accompanying site evaluation questionnaire and annual questionnaire, and do certify that, in their respective opinions, the law school complies with each of the requirements of the Standards for provisional or full approval or that the law school seeks a variance from specific requirements of the Standards. If a law school seeking approval is not part of a university, the letter required from that institution by this subsection must be from the chairperson of the governing board and from the dean;
  - (2) A completed site evaluation questionnaire;
  - (3) A completed annual questionnaire;
  - (4) In the case of a law school seeking provisional approval, a copy of a feasibility study which evaluates the nature of the educational program and goals of the school, the profile of the students who are likely to apply, and the resources necessary to create and sustain the school, including relation to the resources of a parent institution, if any;
  - (5) A copy of the self-study;
  - (6) Financial operating statements and balance sheets for the last three fiscal years, or such lesser time as the institution has been in existence. If the applicant is not a publicly owned institution, the statements and balance sheets must be certified;
  - (7) Appropriate documents detailing the law school and parent institution's ownership interest in any land or physical facilities used by the law school;
  - (8) A request that the Consultant schedule a site evaluation at the school's expense; and,
  - (9) Payment to the Association of the application fee.

- (c) A law school may not apply for provisional approval until it has completed the first full academic year of its program, except as provided in subsection (d).
- (d) A law school may apply for provisional approval before it has completed the first academic year of its program if the Council has acquiesced in a major structural change by the law school pursuant to Rules 20 and 21, and:
  - (1) the law school was created, or is to be created, by the transfer of all, or substantially all, of the academic programs or assets of a fully approved or provisionally approved law school to a new institution and all of the details of the transfer have been settled; or,
  - (2) the law school was created by the opening of a branch by a fully approved law school.
- (e) A law school must demonstrate that it or the university of which it is a part is legally authorized under applicable state law to provide a program of education beyond the secondary level.
- (f) A law school shall disclose whether an accrediting agency recognized by the U.S. Secretary of Education has denied an application for accreditation filed by the law school, revoked the accreditation of the law school, or placed the law school on probation. If the law school is part of a university, then the law school shall further disclose whether an accrediting agency recognized by the U.S. Secretary of Education has taken any of the actions enumerated above with respect to the university or any program offered by the university. As part of such disclosure, the school shall provide the Consultant with information concerning the basis for the action of the accrediting agency.
- (g) When a law school submits a completed application for provisional or full approval, the Consultant shall arrange for a site evaluation as provided under Rule 2.
- (h) Upon the completion of the procedures provided in Rule 2, the Accreditation Committee shall consider the application in accordance with Rule 3.

#### **Rule 5. Jurisdiction of the Accreditation Committee**

- (a) The Committee has the jurisdiction to make recommendations to the Council concerning:
  - (1) the granting of provisional approval or the extension of the period of provisional approval under Standard 102;
  - (2) the granting of full approval under Standard 103;
  - (3) the granting of acquiescence in major changes under Standard 105, except that the Committee has jurisdiction to make decisions concerning acquiescence in the types of major changes specified in Interpretation 105-6;
  - (4) the granting of variances under Standard 802; and
  - (5) approval of a teach-out plan under Rule 22.
- (b) The Committee has jurisdiction to make decisions concerning all matters other than those specified in Rule 5(a).
- (c) The Committee has jurisdiction to impose sanctions and to make recommendations to the Council concerning sanctions as provided in Rule 16(f).



**Rule 6. Appearances Before Accreditation Committee and Council**

- (a) A law school has a right to have representatives of the school, including legal counsel, appear before the Committee and the Council when those bodies are considering (i) the school's application for provisional approval, (ii) the school's application for full approval, (iii) the school's application for acquiescence in a major change (other than those major changes with respect to which the Committee has jurisdiction to make a decision under Interpretation 105-6), and (iv) recommending or imposing sanctions.
- (b) The chairperson or a member of the site evaluation team may be present at the Committee or Council meeting at which the law school is considered if requested by the chairperson of the Committee or the Council. The reasonable and necessary expenses of such attendance shall be the responsibility of the law school.

**Rule 7. Reconsideration**

A law school does not have the right to request reconsideration of a decision or recommendation made by the Accreditation Committee or to request reconsideration of a decision made by the Council.

**Rule 8. Council Consideration of Recommendation of Accreditation Committee**

- (a) In considering a recommendation of the Committee, the Council shall adopt the Committee's findings of fact unless the Council determines that the findings of fact are not supported by substantial evidence on the record.
- (b) The Council may adopt, modify or reject the Committee's conclusions or recommendations, or it may refer the matter back to the Committee for further consideration.
- (c) Council consideration of the Committee's recommendation shall, subject to section (d), be based on the following record:
  - (1) The record before the Committee at the time of the Committee's decision;
  - (2) The letter reporting the Committee's findings of fact, conclusions and recommendations; and
  - (3) The school's appearance before the Council, if any.
- (d) The Council will accept new evidence submitted by the school only upon a two-thirds vote of those Council members present and voting and only based on findings that:
  - (1) The evidence was not presented to the Committee,
  - (2) The evidence could not reasonably have been presented to the Committee,
  - (3) A reference back to the Committee to consider the evidence would, under the circumstances, present a serious hardship to the school,
  - (4) The evidence was submitted at least 14 days in advance of the Council meeting, and
  - (5) The evidence was appropriately verified at the time of submission.
- (e) The Consultant shall inform the president and the dean of the law school of the Council's decision in writing.

**Rule 9. Council Consideration of Appeal from Accreditation Committee Decision**

- (a) A law school may appeal an Accreditation Committee decision by filing with the Consultant a written appeal within 30 days after the date of the letter reporting the Committee's decision.
- (b) The Council shall consider the appeal at its next regularly scheduled meeting, if feasible.
- (c) The Council shall adopt the Committee's findings of fact unless the Council determines that the findings of fact are not supported by substantial evidence on the record.
- (d) The Council shall give substantial deference to the Committee's conclusions and decisions. The Council may affirm or modify the Committee's conclusions and decisions or it may refer the matter back to the Committee for further consideration.
- (e) The record upon which the law school may base its appeal shall consist of the following:
  - (1) The record before the Committee at the time of the Committee's decision,
  - (2) The letter reporting the Committee's decision,
  - (3) The Committee response to the appeal, if any, and
  - (4) The law school's written appeal. The written appeal may not contain, nor may it refer to, any evidence that was not in the record before the Committee at the time of its action.
- (f) There shall be no right of appearance before the Council in connection with the appeal.
- (g) The Consultant shall inform the president and the dean of the law school of the Council's decision by letter.

**Rule 10. Appeal of an Adverse Decision of the Council**

- (a) A law school may appeal the following adverse decisions of the Council:
  - 1. Denial of provisional approval;
  - 2. Denial of full approval; or
  - 3. Removal from list of approved law schools
- (b) A law school may appeal the adverse decisions specified in Section (a) of this Rule, by filing with the Consultant a written appeal within 30 days after the date of the letter reporting the adverse decision of the Council to the law school.
- (c) A written appeal must include:
  - 1. Grounds for appeal; and
  - 2. Documentation to support the appeal. The written appeal may not contain, nor may it refer to, any evidence that is not in the record before the Council.
- (d) The grounds for an appeal must be based upon at least one of the following:
  - 1. The decision was arbitrary and capricious; or
  - 2. The Council failed to follow the applicable Rules of Procedure and the procedural error prejudiced its decision.

- (e) On appeal, the law school has the burden of demonstrating that the Council's decision was arbitrary and capricious and not supported by the evidence on record, or inconsistent with the Rules of Procedure and that inconsistency prejudiced its decision.
- (f) Within 30 days of receipt of a written appeal, the Consultant will refer the appeal to the Appeals Panel.
- (g) The Appeals Panel shall consist of three people appointed by the Chair of the Council to serve a one year term beginning at the end of the Annual Meeting of the Section and continuing to the end of the next Annual Meeting of the Section. The Chair of the Council shall also appoint, at the same time and for the same term, three alternates to the Appeals Panel. All members of the Appeals Panel and alternates shall be (1) former members of the Council or Accreditation Committee or (2) experienced site team evaluators. The Appeals Panel and the panel of alternates will each include one legal educator, one judge or practitioner, and one public member. The Chair of the Council shall designate one member of the Appeals Panel to serve as its chair. Members of the Appeals Panel and alternates shall be:
  - 1. Experienced and knowledgeable in the Standards, Interpretations and Rules of Procedure;
  - 2. Trained in the current Standards, Interpretations and Rules of Procedure at a retreat or workshop or by other appropriate methods within the last 3 years;
  - 3. Subject to the Section's Conflicts of Interest Policy, as provided in IOP 19; and
  - 4. Appointed for a one-year term and eligible to serve consecutive terms.

In the event that any member of the Appeals Panel is disqualified under IOP 19 or is otherwise unable to serve on a particular Appeal, that member of the Appeals Panel shall be replaced for that Appeal by the alternate from the same occupational category. In the event that neither the member nor designated alternate in the same occupational category is able to serve on a particular Appeal, the Chair of the Council shall appoint a second alternate, from the same occupational category, for that Appeal.

- (h) The Consultant shall inform the law school of the time, date, and place of the hearing at least 30 days in advance. The law school shall have a right to have representatives of the school, including legal counsel, appear and present written and/or oral statements to the Appeals Panel, subject to Sections (c) and (i) of this Rule. The hearing shall be transcribed by a court reporter and a transcript of the hearing shall be provided to the Council and the law school. The hearing will be held in closed session and not open to the public. The Council may establish additional rules of procedure for the hearing of appeals.
- (i) The Appeals Panel shall consider the appeal at a hearing within 45 days of having received its charge from the Consultant. The appeal shall be decided based on the record before the Accreditation Committee and the Council, the decision letters of those bodies and the documents cited therein, and transcripts from appearances by the law school. No new evidence shall be considered by the Appeals Panel. The Appeals Panel can take one of the following actions:
  - 1. Affirm the adverse decision of the Council;
  - 2. Reverse the adverse decision of the Council;
  - 3. Amend the adverse decision of the Council; or
  - 4. Remand the adverse decision of the Council for further consideration.

Within 30 days after the conclusion of the hearing, the Appeals Panel shall provide the Council and the law school with a written statement of the Appeals Panel's decision and the basis for that decision.

The decision of the Appeals Panel shall be effective upon issuance. If the Appeals Panel remands the adverse decision of the Council for further consideration by the Council, the Appeals Panel shall identify specific issues that the Council must address. The Council shall act in a manner consistent with the Appeals Panel's decisions or instructions.

In implementing the decision of the Appeals Panel, the Council may impose any monitoring, reporting or other requirements on the law school consistent with the Appeals Panel decision and the Rules of Procedure.

- (j) The Consultant shall give written notice to the president and dean of the law school of the Council's adoption and implementation of the Appeal Panel's decision.
- (k) When the only remaining deficiency cited by the Council in support of an adverse decision is a law school's failure to meet the standards dealing with financial resources for a law school, the law school may request a review of new financial information that was not part of the record before the Council at the time of the adverse decision if all of the following conditions are met:
  - 1. A written request for review is filed with the Consultant within 30 days after the date of the letter reporting the adverse decision of the Council to the law school;
  - 2. The financial information was unavailable to the law school until after the adverse decision subject to the appeal was made; and
  - 3. The financial information is significant and bears materially on the financial deficiencies that were the basis of the adverse decision by the Council.
- (l) The request to review new financial information will be considered by the Council at its next meeting occurring at least 30 days after receipt of the request.
- (m) The Consultant shall inform the president and dean of the law school of the Council's decision in writing.
- (n) A law school may request review of new financial information only once and a decision made by the Council with respect to that review does not provide a basis for appeal.

#### **Rule 11. Reapplication for Provisional or Full Approval or for Acquiescence in Major Change**

- (a) If an application for provisional or full approval is withdrawn by a law school, the school may not reapply until at least ten months have elapsed from the date of withdrawal of the application. Any new application also must be filed within the time prescribed by Rule 4(a). For good cause shown, the chairperson of the Council (or of the Committee if the Committee was the last body to act upon the prior application) may authorize an earlier application.
- (b) If the Council decides not to grant provisional or full approval, or if a law school is removed from the list of approved law schools, the law school may not reapply for approval until at least ten months after the date of the letter reporting the Council's decision to the law school or (if later) the date of any letter reporting the concurrence of the House in the Council's decision. Any new application for approval also must be filed within the time prescribed by Rule 4(a). For good cause shown, the chairperson of the Council may authorize an earlier application.
- (c) If an application for acquiescence in a major change is withdrawn by a law school, the school may not reapply for acquiescence until at least ten months have elapsed from the date of withdrawal of

the application. For good cause shown, the chairperson of the Council (or of the Committee if the Committee was the last body to act upon the prior application) may authorize an earlier application.

(d) If the Committee or the Council decides not to grant acquiescence in a major change, the law school may not reapply for acquiescence until at least ten months have elapsed from the date of the letter reporting the decision of the Committee or the Council. For good cause shown, the chairperson of the Council (or of the Committee if the Committee was the last body to act upon the prior application) may authorize an earlier application.

## C. Evaluation of Provisionally or Fully Approved Law Schools

### Rule 12. Site Evaluation of Provisionally or Fully Approved Law Schools

- (a) A site evaluation of a provisionally approved law school shall be conducted each year. A site evaluation of a fully approved law school shall be conducted in the third year following the granting of full approval and every seventh year thereafter. The Council or Committee may order additional site evaluations of a school when special circumstances warrant.
- (b) In years two, four and five of a school's provisional approval status, the school shall normally be required to prepare a complete self-study, and the site evaluation shall normally be undertaken by a full site evaluation team. In years one and three of a school's provisional status, a full self-study normally will not be required and a limited site evaluation, conducted by one or two site evaluators, normally will be undertaken. The purpose of the limited site evaluation will primarily be to determine the extent to which the school is making satisfactory progress toward achieving full compliance with the Standards, and to identify any significant changes in the school's situation since the last full site evaluation. The Accreditation Committee shall have the discretion to order a full site evaluation in any particular year, and to order a limited site evaluation if it determines that a full site evaluation is not necessary in any particular year.
- (c) The Consultant shall arrange for the site evaluation in accordance with Rule 2.
- (d) Upon the completion of the procedures provided in Rule 2, the Accreditation Committee shall consider the law school's evaluation in accordance with Rule 3.
- (e) A request for postponement of a site evaluation will be granted only if the law school is in the process of moving to a new physical facility or if extraordinary circumstances exist which would make it impossible for the scheduled site evaluation to take place. The postponement shall not exceed one year. The pending resignation of a dean, the appointment of an acting dean or the appointment of a permanent dean are not grounds for the postponement of a scheduled site evaluation. The Consultant, with the approval of the Accreditation Committee, may postpone site evaluations of some fully approved schools for one year in order to reduce the variation in the number of site evaluations of fully approved schools that are conducted each year.

**Rule 13. Action Concerning Apparent Non-Compliance with Standards**

- (a) If the Committee has reason to believe that a law school has not demonstrated compliance with the Standards, the Committee shall inform the school of that fact and request the school to furnish by a date certain further information in order to demonstrate the school's compliance with the Standards. The school shall furnish the requested information to the Committee.
- (b) If, upon a review of the information furnished by the law school in response to the Committee's request and other relevant information, the Committee determines that the school is not in compliance with the Standards, the school shall be required to appear at a hearing before the Committee to be held at a specified time and place to show cause why the school should not be required to take appropriate remedial action, have sanctions imposed upon it or be placed on probation, or be removed from the list of law schools approved by the Association. After a determination under Rule 13(b) that a law school is not in compliance with the Standards, the school shall have a period of time as set by the Committee to come into compliance. That period of time shall not exceed two years. If the law school does not demonstrate compliance by the end of that period, the Committee shall recommend to the Council that the law school be removed from the list of approved law schools unless the Committee, or the Council, extends the period for demonstrating compliance for good cause shown.
- (c) If the Committee finds that a law school has failed to comply with the Standards by refusing to furnish information or to cooperate in a site evaluation, the school may be required to appear at a hearing before the Committee to be held at a specified time and place to show cause why the school should not be required to take appropriate remedial action, have sanctions imposed upon it, be placed on probation, or be removed from the list of law schools approved by the Association.
- (d) The Consultant shall give the law school at least thirty (30) days notice of the Committee hearing. The notice shall specify the apparent non-compliance with the Standards and state the time and place of the hearing. For good cause shown, the chairperson of the Committee may grant the school additional time, not to exceed thirty (30) days. Both the notice and the request for extension of time must be in writing.

**Rule 14. Fact Finders**

- (a) The chairperson of the Committee or the chairperson of the Council may appoint, or may direct the Consultant to appoint, one or more fact finders to elicit facts relevant to any matter before the Committee or Council.
- (b) The Consultant shall furnish the fact finder(s) with a copy of the most recent site evaluation questionnaire, the site evaluation report, the annual questionnaire, any letters reporting Committee or Council actions written subsequent to the most recent site evaluation report, notice of the Committee hearing or Council meeting, and other relevant information.
- (c) Following the fact finding visit, the fact finder(s) shall promptly prepare a written report. The fact finder(s) shall not determine compliance or non-compliance with the Standards, but shall report facts and observations that will enable the Committee and Council to determine compliance.
- (d) The fact finder(s) shall promptly submit the report to the Consultant. After reviewing the report and conforming it to Rule 14(c), the Consultant shall transmit the report to the president and the dean of the law school in order to provide an opportunity to make factual corrections and comments. The school shall be given at least thirty (30) days to prepare its response to the report, unless the school consents to

a shorter time period. The thirty-day period shall run from the date on which the Consultant transmitted the report to the school.

### **Rule 15. Hearing on Show Cause Order**

- (a) This Rule governs hearings conducted pursuant to Rule 13(b) and Rule 13(c).
- (b) The Consultant shall furnish to the Committee:
  - (1) The fact finder(s)'s report, if any;
  - (2) The most recent site evaluation report;
  - (3) The site evaluation questionnaire;
  - (4) The annual questionnaire;
  - (5) Any letters reporting Committee or Council decisions written subsequent to the most recent site evaluation report; and
  - (6) Other relevant information.
- (c) Representatives of the law school, including legal counsel, may appear at the hearing and submit information to demonstrate that the school is currently in compliance with all of the Standards, to present a reliable plan for bringing the school into compliance with all of the Standards within a reasonable time, or to present information relevant in a sanctions proceeding.
- (d) The chairperson of the Committee may invite the fact finder(s), if any, and the chairperson or other member of the most recent site evaluation team to appear at the hearing. The law school shall reimburse the fact finder and site evaluation team member for reasonable and necessary expenses incurred in attending the hearing.

### **Rule 16. Sanctions**

- (a) Conduct for which sanctions may be imposed upon a law school includes, without limitation:
  - (1) Substantial or persistent noncompliance with one or more of the Standards;
  - (2) Failure to present a reliable plan to bring the law school into compliance with the Standards;
  - (3) Failure to provide information or to cooperate in a site evaluation as required by the Standards;
  - (4) Making misrepresentations or engaging in misleading conduct in connection with consideration of the school's status by the Committee or the Council, or in public statements concerning the school's approval status;
  - (5) Initiating a major change or implementing a new program without having obtained the prior approval or acquiescence required by the Standards; and/or
  - (6) Provision of incomplete, inaccurate or misleading consumer information in violation of Standard 509.
- (b) Sanctions may be imposed even if a school has, subsequent to the actions that justify sanctions, ceased those actions or brought itself into compliance with the Standards.
- (c) Sanctions that may be imposed include, without limitation:

- (1) A monetary penalty proportionate to the violation;
  - (2) A requirement that the law school refund part or all of the tuition and/or fees paid by students in such a program;
  - (3) Censure, which may be either private or public;
  - (4) Required publication of a corrective statement;
  - (5) Prohibition against initiating new programs;
  - (6) Probation; and/or
  - (7) Removal from the list of approved law schools.
- (d) In the course of a sanctions proceeding, the Committee or the Council may also direct a law school to take remedial action to bring itself into compliance with the Standards.
- (e) If a law school is placed on probation, the Council shall establish the maximum period of time that the school may remain on probation and shall establish the conditions that the law school must meet in order to be removed from probation. The Committee may make recommendations to the Council concerning the period and conditions of probation.
- (f) The Committee has the power to impose upon a school any sanction other than probation or removal from the list of approved law schools. A school may appeal a decision of the Committee to impose a sanction to the Council. The Committee also may recommend to the Council that a school be placed on probation or removed from the list of approved law schools.

#### **Rule 17. Council Consideration of Sanctions**

- (a) Council consideration of a Committee recommendation to impose sanctions or a school's appeal from a Committee decision to impose sanctions shall be conducted in accordance with Rule 8. The Council may affirm, modify or reject the sanctions imposed or recommended by the Committee, or it may refer the matter back to the Committee for further consideration.
- (b) The Council has the power to impose any sanction, including probation and removal from the list of approved law schools, regardless of whether the Committee has imposed or recommended any sanction.

#### **Rule 18. Compliance with Sanctions or with Remedial or Probationary Requirements**

- (a) Upon determination under Rule 13(b) that a law school is not in compliance with the Standards and or after a law school has been placed on probation pursuant to Rule 16, the school shall have a period as set by the Committee or the Council to come into compliance. The period of time may not exceed two years. If the law school does not demonstrate compliance by the end of that period, the Committee shall recommend to the Council that the law school be removed from the list of approved law schools unless the Committee, or the Council, extends the period for demonstrating compliance for good cause shown.
- (b) The Committee shall monitor the law school's compliance with any sanctions imposed upon the school under Rules 16 or 17, with any requirements that the law school take remedial action, or with the requirements of the law school's probation. If the Committee concludes that the school is not complying with the sanctions that have been imposed, or not making adequate progress toward bringing itself into compliance with the Standards, or not fulfilling the requirements of its probation, the Committee may



impose or recommend additional sanctions, including probation or removal from the list of approved law schools.

- (c) If a law school has been placed on probation and the Committee concludes that the school has not established that it has fulfilled the requirements of its probation by the end of the established period of probation, the Committee shall recommend to the Council that the school be removed from the list of approved law schools. If the Committee concludes that the school has fulfilled the requirements of its probation, it shall recommend to the Council that the school be taken off probation. These recommendations shall be considered under the procedures set forth in Rule 17.

#### **Rule 19. Approval Status of Law School Pending Appeal**

The approval status of a law school is not affected while an appeal from, or review of, a decision or recommendation of the Committee or Council is pending.

## **D. Major Changes in Program or Structure**

#### **Rule 20. Major Change in the Organizational Structure of a Provisionally or Fully Approved Law School**

- (a) This Rule governs consideration of applications for acquiescence in a major change in the organizational structure of an approved law school, including, without limitation:
  - (1) Materially modifying the law school's legal status or institutional relationship with a parent institution;
  - (2) Merging or affiliating with one or more approved or unapproved law schools;
  - (3) Acquiring another law school, program, or educational institution;
  - (4) Acquiring or merging with another university by the parent university where it appears that there may be substantial impact on the operation of the law school;
  - (5) Transferring all, or substantially all, of the academic program or assets of the approved law school to another law school or university;
  - (6) Opening of a Branch campus or a Satellite campus at which a student could take the equivalent of 16 or more semester credit hours toward the law school's J.D.;
  - (7) Merging or affiliating with one or more universities;
  - (8) A change in the control of the school resulting from a change in the ownership of the school or a contractual arrangement;
  - (9) A change in the location of the school that could result in substantial changes in the faculty, administration, student body or management of the school;

- (10) Contracting with an educational entity that is not certified to participate in Title IV, HEA programs, that would permit a student to earn 25 percent or more of the course credits required for graduation from the approved law school;
  - (11) The addition of a permanent location at which the law school is conducting a teach-out for students at another law school that has ceased operating before all students have completed their program of study;
  - (12) A significant change in the mission or objectives of the law school; or
  - (13) The addition of courses or programs that represent a significant departure from existing offerings or method of delivery since the last accreditation period.
- (b) For purposes of this Rule:
- (1) Any of the changes in organizational structure listed in Rule 20(a) may amount to the closure of an approved law school and the opening of a different law school. If the Accreditation Committee determines, after written notice and an opportunity for written response, that such a change does amount to the closure of an approved law school and the opening of a different law school, it shall so notify the law school(s). If the Committee determines that any proposed structural change constitutes the creation of a different law school, it shall recommend to the Council that any acquiescence in the proposed structural change be accompanied by a requirement that the school apply for provisional approval under the provisions of Standard 102 and Rule 4.
  - (2) Factors that shall be considered in making the determination of whether the events listed in subsection (1) above constitute the closure of an approved law school and the opening of a different law school include, without limitation, whether such events are likely to result in
    - (a) significant reduction in the financial resources available to the law school;
    - (b) significant change, present or planned, in the governance of the law school;
    - (c) significant change, present or planned, in the overall composition of the faculty and staff at the law school;
    - (d) significant change, present or planned, in the educational program offered by the law school; or
    - (e) significant change, present or planned, in the location or physical facilities of the law school.
  - (3) Opening of a Branch campus by an approved law school is treated as the creation of a different law school. After the law school has obtained prior acquiescence of the Council in the major change caused by the opening of a Branch campus, the Branch campus also shall apply for provisional approval under the provisions of Standard 102 and Rule 4 no later than October 15 of the second academic year of operation of the Branch campus. A law school seeking to establish a Branch campus shall submit to the Consultant, as part of its application, a business plan that contains the following information concerning the proposed Branch campus: a description of the educational program to be offered; projected revenues, expenditures and cash flow; and the operational, management and physical resources of the proposed Branch campus.
  - (4) After written notice and an opportunity for a written response, the Accreditation Committee shall determine whether any other proposed structural change constitutes the creation of a different law school. If the Accreditation Committee determines that any proposed structural change constitutes the creation of a different law school, it shall recommend to the Council that any acquiescence in the proposed structural change be accompanied by a requirement that the school apply for provisional approval under the provisions of Standard 102 and Rule 4.

- (c) If a different school will be created as a result of the major structural change, the different school may apply for approval pursuant to provisions of Rule 4. If the different school demonstrates that it is in full compliance with the Standards as provided in Standard 103, the Committee shall recommend that it be fully approved. Such recommendation may be conditioned upon further site evaluation visits or other requirements. If the different school is not in full compliance with the Standards, but it substantially complies with each of the Standards as provided in Standard 102, the Committee shall recommend that it be provisionally approved. The Committee may also recommend that the school will be allowed to seek full approval in a period of time shorter than that provided in Standard 103.
- (d) Whether or not the Accreditation Committee determines that the proposed change will create a different law school, the law school's request for acquiescence by the Council in the proposed major change in organizational structure shall be considered under the provisions of Rule 21, and will become effective upon the decision of the Council. The decision of the Council may not be retroactive.

**Rule 21. Major Change in the Program of Legal Education of a Provisionally or Fully Approved Law School**

- (a) This Rule governs consideration of applications for acquiescence in major changes in the program of legal education of a law school, including, without limitation:
  - (1) Instituting a new full-time or part-time division;
  - (2) Changing from a full-time to a part-time program or from a part-time to a full-time program;
  - (3) Establishing a two-year undergraduate/four-year law school or similar program;
  - (4) Establishing a new or different program leading to a degree other than the J.D. degree;
  - (5) A change in program length measurement from clock hours to credit hours; and
  - (6) A substantial increase in the number of clock or credit hours that are required for graduation.
- (b) This Rule also governs consideration of applications for acquiescence in a change in organizational structure as provided in Rule 20(a).
- (c) An application governed by this Rule must contain:
  - (1) A letter from the president and the dean of the law school stating that they have read and carefully considered the Standards, have answered in detail the questions asked in the accompanying major change questionnaire, and do certify that, in their respective opinions, the school meets the requirements of the Standards for the granting of acquiescence in the proposed major change. If a law school seeking acquiescence is not part of a university, the letter may be from only the dean;
  - (2) A completed major change questionnaire;
  - (3) A copy of the law school's most recent self-study;
  - (4) A description of the proposed change and a detailed analysis of the effect of the proposed change on the law school's compliance with the Standards;
  - (5) A request that the Consultant schedule any required site evaluation at the school's expense; and,
  - (6) Payment to the Association of the application fee.
- (d) A site evaluation of the school must be conducted before the Accreditation Committee or the Council considers the application, unless the application seeks acquiescence in a major change described in Rule 21(a)(4), Rule 21(a)(5), or Rule 21(a)(6).

- (e) The site evaluation shall be conducted in accordance with the provisions of Rules 2 and 14. The site evaluators shall prepare a written report based on the site evaluation. The site evaluators shall report facts and observations that will enable the Accreditation Committee and the Council to determine whether the law school satisfies the requirements of the Standards for granting acquiescence in the proposed major change. The site evaluators shall not make any determination as to the school's compliance with the Standards.
- (f) The Accreditation Committee's consideration of an application for acquiescence shall be governed by the provisions of Rules 3, 5 and 6. The Council's consideration of such applications shall be governed by the provisions of Rules 6 and 8.
- (g) After the Council meeting at which the application is considered, the Consultant shall inform the president and the dean of the law school in writing of the Council's decision. There is no appeal from the Council's decision on an application for acquiescence in a major change.
- (h) Following acquiescence in a major change, the Consultant shall arrange for a limited site evaluation of the school not later than six months after the date of the acquiescence to determine whether the law school has realized the anticipated benefits and remains in compliance with the Standards. No site visit shall be required following acquiescence in a major change described in Rule 21(a)(5) or Rule 21(a)(6). The limited evaluation of a school granted acquiescence pursuant to Rules 21(a)(1)-(4), or after acquiescence in the establishment of a Branch or Satellite campus under Rule 20(a)(6), shall be conducted in the first academic term subsequent to acquiescence in which students are enrolled in the new program or attending the Branch or Satellite campus. The Consultant may determine in each instance whether the evaluation pursuant to a major change under Rule 21(a)(4) requires an actual site visit or may be conducted through other means.

## E. Closure

### Rule 22. Teach-out Plan and Agreement and Law School Closure

- (a) A provisional or fully approved school must submit a teach-out plan for approval by the Accreditation Committee and Council upon occurrence of any of the following events:
  - (1) The school notifies the consultant's office that it intends to cease operations entirely or close a separate location in which a student can earn all of the necessary credits to earn the J.D. degree;
  - (2) The Accreditation Committee recommends or the Council acts to withdraw, terminate, or suspend the accreditation of the school;
  - (3) The U.S. Secretary of Education notifies the Consultant's Office that the Secretary has initiated an emergency action against an institution, in accordance with section 487(c)(1)(G) of the HEA, or an action to limit, suspend, or terminate an institution participating in any title IV, HEA program, in accordance with section 487(c)(1)(F) of the HEA, and that a teach-out plan is required;
  - (4) A State licensing or authorizing agency notifies the Consultant's Office that an institution's license or legal authorization to provide an educational program has been or will be revoked.

- (b) As soon as the decision to close an approved law school or branch is made, the school shall make a public announcement of the decision and shall notify the Consultant, the appropriate State Licensing authority and the U.S. Department of Education of the decision.
- (c) The school shall submit the teach-out plan for the school or branch being closed as required by paragraph (a) to the Consultant's office within such time specified by the Consultant. The Consultant's Office, in consultation with the Accreditation Committee leadership, may require a school to enter into a teach-out agreement as part of its teach-out plan.
- (d) The Accreditation Committee will promptly review the teach-out plan. The Committee may recommend approval of the plan to the Council, which shall consider the recommendation in accordance with Rule 8. The Accreditation Committee or the Council may deny approval of a plan, or condition approval of the plan on the school making specified changes to the plan. The Committee's decision not to recommend approval of a plan to the Council is final and may not be appealed to the Council. To be approved by the Accreditation Committee and Council, the teach-out plan must satisfactorily address the items identified in paragraph (e), and, if applicable, the teach-out agreement must satisfactorily address the items identified in paragraph (f). If the Accreditation Committee or the Council denies approval of a school's teach-out plan, the school must revise the plan to meet the deficiencies identified by the Committee or Council; and resubmit the plan as soon as possible and no later than 30 days after receiving notice of the decision.
- (e) The teach-out plan must be submitted on Official Form A of these Rules and provide for the equitable treatment of its own students and, at a minimum, address each item in the Form.
- (f) If a school voluntarily enters into a teach-out agreement or if the Consultant requires a school to submit a proposed teach-out agreement as part of a teach-out plan, the school must submit a copy of the agreement in the form of Official Form B to these Rules approved by the Council, demonstrate each of the substantive criteria specified by the Form.
- (g) Upon approval by the Council of a teach-out plan that includes a program that is accredited by another recognized accrediting agency, the Consultant's Office shall notify that accrediting agency within 30 days of its approval.
- (h) Upon approval of a law school's teach-out plan by the Council, the Consultant shall notify within 30 days all recognized agencies that accredit other programs offered by the institution of which the law school is a part.
- (i) In the event a School closes without an approved teach-out plan or agreement, the Consultant's office will work with the U.S. Department of Education and the appropriate State agency, to the extent feasible, to assist students in finding reasonable opportunities to complete their education without additional charges.

## F. Foreign Programs

### Rule 23. Credit-Granting Foreign Programs

- (a) A law school may not undertake a credit-granting foreign program without first notifying the Consultant and obtaining Committee approval in accordance with the Criteria for Approval of Foreign Summer and Intersession Programs, Criteria for Approval of Semester and Year-Long Study Abroad Programs, Criteria for Student Study at a Foreign Institution, or other criteria applicable to the awarding of credit for foreign study.
- (b) If the Accreditation Committee determines not to approve, or to withdraw approval from, a credit-granting foreign program, the law school may appeal the Committee's decision to the Council under the provisions of Rule 9.

## G. Complaints

### Rule 24. Complaints Concerning Law School Non-Compliance with the Standards

- (a) The United States Department of Education procedures and rules for the recognition of accrediting agencies require a recognized accrediting agency to have a process for the reporting of complaints against accredited institutions that might be out of compliance with the agency's accreditation standards. This is the process for the Council of the Section of Legal Education and Admissions to the Bar and law schools with Juris Doctor programs approved by the Council.
  - (i) This process aims to bring to the attention of the Council, the Accreditation Committee, and the Consultant on Legal Education facts and allegations that may indicate that an approved law school is operating its program of legal education out of compliance with the Standards for the Approval of Law Schools.
  - (ii) This process is not available to serve as a mediating or dispute-resolving process for persons with complaints about the policies or actions of an approved law school. The Council, Accreditation Committee and the Consultant on Legal Education will not intervene with an approved law school on behalf of an individual with a complaint against or concern about action taken by a law school that adversely affects that individual. The outcome of this process will not be the ordering of any individual relief for any person or specific action by a law school with respect to any individual.
  - (iii) If a law school that is the subject of a complaint is due to receive a regularly scheduled sabbatical site visit within a reasonable amount of time after the complaint is received, usually within one year, the complaint may be handled as part of the sabbatical site visit.
- (b) Any person may file with the Consultant on Legal Education a written complaint alleging non-compliance with the Standards for the Approval of Law Schools by an approved law school.

- (i) Except in extraordinary circumstances, the complaint must be filed within one calendar year of the facts on which the allegation is based. Pursuit of other remedies does not toll this one calendar year limit.
  - (ii) Complaints must be in writing using the form "Complaint Against an ABA-Approved Law School" and must be signed. The form is available online and from the Office of the Consultant on Legal Education.
  - (iii) Anonymous complaints will not be considered.
  - (iv) A complaint that has been resolved will not be subject to further review or reconsideration unless subsequent complaints about the school raise new issues or suggest a pattern of significant noncompliance with the Standards not evident from the consideration of the previously resolved complaint.
- (c) The Complaint form requests the following information:
- (i) A clear and concise description of the nature of the complaint and any evidence upon which the allegation is based, with relevant supporting documentation. The description and supporting evidence should include relevant facts that support the allegation that the law school is out of compliance with the Standards referenced in the complaint.
  - (ii) The section(s) of the Standards alleged to have been violated and the time frame in which the lack of compliance is alleged to have occurred.
  - (iii) A description of the steps taken to exhaust the law school's grievance process and the actions taken by the law school in response to the complaint as a result of prescribed procedures.
  - (iv) Disclosure of any other channels the complainant is pursuing, including legal action.
  - (v) A release authorizing the Consultant's Office to send a copy of the complaint to the dean of the law school.
- (d) If the person filing the complaint is not willing to sign a release authorizing the Consultant's Office to send a copy of the complaint to the dean of the law school, the matter will be closed. If the Consultant or designee concludes that extraordinary circumstances so require, the name of the person filing the complaint may be withheld from the school.
- (e) Process
- (i) The Consultant or the Consultant's designee shall acknowledge receipt of the complaint within 14 days of its receipt.
  - (ii) The Consultant or designee shall determine whether the complaint alleges facts that raise issues relating to an approved law school's compliance with the Standards. This determination shall be made within six weeks of receiving the complaint. If the Consultant or designee concludes that the complaint does not raise issues relating to an approved school's compliance with the Standards, the matter will be closed.
  - (iii) If the Consultant or designee determines that the complaint may raise such issues, the complaint shall be sent to the school and a response requested. The Consultant or designee ordinarily will request the dean of the school to respond within 30 days.
  - (iv) If the school is asked for a response to the complaint, the Consultant or designee will review that response within 45 days of receiving it. If the response establishes that the school is not out of compliance with respect to the matters raised in the complaint, the Consultant or designee will close the matter.

- (v) If the school's response does not establish that it is operating in compliance with the Standards on the matters raised by the complaint, the Consultant or designee, with the concurrence of the chairperson of the Accreditation Committee, may appoint a fact finder to visit the school to investigate the issues raised by the complaint and the school's response. The complaint, school response, and fact-finder's report, if any, shall be referred to the Accreditation Committee and considered in the same manner as complaints and reviews that fall under Rule 13(a) of the Rules of Procedure.
- (vi) The person making the complaint will be notified promptly whether the matter was concluded under (ii), (iv) or (v) above. The person filing the complaint will not be provided with a copy of the school's response, if any, and will not receive any further report on the matter.
- (f) There is no appeal to the Council or the Accreditation Committee, or elsewhere in the American Bar Association, in connection with a conclusion by the Consultant or designee that a complaint does not raise issues under the Standards.
- (g) To ensure the proper administration of the Standards and this complaint process, a subcommittee of the Accreditation Committee shall periodically review the written complaints received in the Consultant's Office and their disposition. The subcommittee shall periodically report to the Committee on this process. The Consultant's Office shall keep a record of these complaints for a period of ten years.

## H. Information Disclosure and Confidentiality

### Rule 25. Confidentiality of Accreditation Information and Documents

- (a) Except as provided in this Rule and in Rules 10 and 26, all matters relating to the accreditation of a law school shall be confidential. This shall include proceedings and deliberations of the Accreditation Committee and Council, and all non-public documents and information received or generated by the American Bar Association.
- (b) The law school or the university may release an entire site evaluation report or portions of it as it sees fit. If the law school makes public the site evaluation report or any portion thereof, notification must be given to the Consultant at the time of the disclosure, and disclosure of the report may be made by the Consultant, upon approval of the chairperson of the Council.
- (c) Discussion of the contents of a site evaluation report with, or release of the report to, the faculty, the university administration or the governing board of the university (or a free standing law school) does not constitute release of the report to the public within the meaning of this Rule.
- (d) The law school is free to make use of the recommendations and decisions as contained in a decision letter addressed to the president and the dean. However, any release must be a full release and not selected excerpts. The Consultant and the Council reserve the right to correct any incorrect or misleading information released or published by the institution through all appropriate means (including release of portions of the site evaluation report or the entire site evaluation report).



- (e) The dean of the evaluated law school shall review the site evaluation report to determine whether it contains criticism of the professional performance or competence or the behavior of a member of the law school's faculty or professional staff. If the report contains such criticism, the dean shall make available to the person concerned the germane extract of the report and shall send the Consultant a copy of the transmitting letter and of the extract. The person concerned shall have the right to file with the Consultant a document stating the person's views concerning the criticism contained in the site evaluation report, which document or documents shall become part of the law school's official file.

### **Rule 26. Release of Information Concerning Law Schools**

- (a) In the case of a law school seeking provisional or full approval or applying for acquiescence in a major change in organizational structure, the Council or the Consultant shall state:
  - (1) Whether or not a specific law school has submitted an application for provisional or full approval, or for acquiescence in a major change in organizational structure; and
  - (2) The procedural steps for consideration of an application.
- (b) After a law school has been notified of the Accreditation Committee's decision or recommendation concerning the law school's
  - (i) application for provisional or full approval,
  - (ii) application for acquiescence in a major change in program or organizational structure,
  - (iii) the imposition of sanctions upon the law school,
  - (iv) the placing of the school on probation, or
  - (v) the withdrawal of the law school's approval.

In response to inquiries the Consultant may state the essence of the Accreditation Committee's decision or recommendation, with an explanation of any procedural steps for further consideration of the matter.

- (c) After a law school has been notified of a decision of the Council concerning the law school's
  - (i) application for provisional or full approval,
  - (ii) application for acquiescence in a major change in program or organizational structure,
  - (iii) the imposition of sanctions upon the school,
  - (iv) the placing of the school on probation, or
  - (v) the withdrawal of the law school's approval.

The Council or the Consultant shall provide public notification of the Council's decision (except as to a sanction that is explicitly not public), with an explanation of any procedural steps for further consideration of the matter.

- (d) After a matter concerning a law school has been acted upon by the Appeals Panel as provided in Rule 10, the Council or the Consultant shall provide public notification of the action of the Appeals Panel with an explanation of any procedural steps for further consideration of the matter.

**Rule 27. Information to be Furnished by Schools**

- (a) A law school shall provide in a timely manner all information requested by the Consultant, a site evaluation team, the Accreditation Committee or the Council.
- (b) Statistical reports prepared from data contained in the annual questionnaires are for the use of the Council, the Accreditation Committee, the Consultant, and deans of ABA-approved law schools and are not for public release. Information provided in statistical reports is intended for exclusive and official use by those persons authorized by the Council to receive it, except as public disclosure of information about specific law schools is authorized under Standard 509. The Consultant is also authorized to release to the public or in response to inquiries general data from the statistical reports that are not school-specific.
- (c) An approved law school shall promptly inform the Consultant if an accrediting agency recognized by the U.S. Secretary of Education denies an application for accreditation filed by the law school, revokes the accreditation of the law school, or places the law school on probation. If the law school is part of a university, then the law school shall promptly inform the Consultant if an accrediting agency recognized by the U.S. Secretary of Education takes any of the actions enumerated above with respect to the university or any program offered by the university. As part of such disclosure, the school shall provide the Consultant with information concerning the basis for the action of the accrediting agency.

**Rule 28. Publication of List of Approved Schools**

The Council shall publish a complete list of all approved law schools. The list shall be published annually in a publication designated by the Council pursuant to Standard 509 and on the Section's website.

## I. Fees

**Rule 29. Fees**

The Council shall fix fees for:

- (a) Filing an application for provisional approval. If a law school withdraws its application for provisional approval before a site evaluation takes place, the school will be refunded fifty percent of the application fee;
- (b) Annual site evaluations of a provisionally approved law schools;
- (c) Annual fees for fully approved law schools;
- (d) Annual fees for approved foreign programs;
- (e) Applications for approval of foreign programs;

- (f) Applications for acquiescence in a major change in program or structure of an approved school as provided in Rules 20 or 21; and
- (g) Other services and activities of the Section.

## J. Reimbursement

### **Rule 30. Guidelines for Reimbursement of Site Evaluators and Fact Finders**

All reasonable and necessary expenses of members of site evaluation teams and fact finders shall be reimbursed by the visited institution as follows:

- (a) Transportation - All necessary transportation on the basis of coach class airfares and ground transportation expenses.
- (b) Lodging and Meals - Hotel or motel sleeping rooms at a reasonable cost, including a meeting room when necessary for the work of the site evaluation team or fact finders. Meals shall be reimbursed on a reasonable basis.
- (c) Incidentals - Gratuities and miscellaneous items shall be reimbursed. Long distance telephone calls related to the site visit shall be reimbursed.

# Criteria for Approval of Foreign Summer and Intersession Programs Established by ABA-Approved Law Schools

## Preamble

The Council has adopted three sets of Criteria applicable to study abroad: Criteria for Approval of Foreign Summer and Intersession Programs Established by ABA-Approved Law Schools; Criteria for Approval of Semester and Year-Long Study Abroad Programs Established by ABA-Approved Law Schools; and Criteria for Student Study at a Foreign Institution.

Standard 307 provides that a law school may not grant credit toward the J.D. degree for studies in a foreign country unless those studies are approved in accordance with the *Rules of Procedure for Approval of Law Schools* and *Criteria* adopted by the American Bar Association's Council of the Section of Legal Education and Admissions to the Bar.

The ABA's oversight role with regard to study abroad programs is designed to provide assurance of a sound educational experience in a study abroad program sponsored by an ABA-approved law school.

The Criteria related to study abroad provide a framework for law schools to grant students credit toward the J.D. degree for studies abroad. They seek to provide flexibility for a school to design programs and to permit study abroad consistent with the law school's mission while maintaining a level of oversight of the school's program of legal education that is consistent with the role and scope of the *Standards for the Approval of Law Schools*.

These Criteria recognize that the primary responsibility for determining the quality of the educational experience that students receive during a study abroad experience rests with the faculty and administration of the law school.

The ABA Standards and Rules of Procedure for the Approval of Law Schools shall apply to study abroad programs except as modified by the Criteria or by necessary implication.

**I. The Program**

- A. The dean and faculty of the sponsoring law school (or schools if there is more than one sponsoring law school) are responsible for formulating and administering the foreign summer or intersession program.
- B. The faculty of each of the sponsoring law school(s) must approve the academic content of the program in the same manner as the curriculum of the sponsoring school's on-campus program.
- C. The academic content of the program must meet the same standards, including evaluation of student performance, as the on-campus program of the sponsoring school(s).
- D. A substantial portion of the academic program must relate to the socio-legal environment of the host country or have an international or comparative focus.
- E. The number of students enrolled in the program shall not exceed the number appropriate for the academic content of the program, available facilities, the number and availability of faculty members, the administrative support structure, and any special educational program goals.

**II. Faculty and Staff****A. Faculty Oversight**

- 1. The sponsoring law school(s) shall assign at least one tenured, tenure-track or full-time faculty member from the law school (or one of the co-sponsoring law schools) to the foreign summer or intersession program who will be present on site for the duration of the program.
- 2. A visiting professor to a sponsoring law school is not considered a full-time faculty member for purposes of this provision.
- 3. The faculty member assigned to fulfill subsection A.1. may also serve as the program director.
- 4. The faculty member assigned to fulfill subsection A.1. must be well qualified by experience with the sponsoring law school (or one of the co-sponsoring law schools) to provide leadership and appropriate faculty oversight of the program for the sponsoring law school(s).
- 5. The requirement of a continuous presence of a tenured, tenure-track or full-time faculty member from the sponsoring law school(s) may be satisfied by having different faculty members from the sponsoring law school(s) participating in the program at different times as long as each fulfills subsection A.1. and one such faculty member is on site at all times.

**B. Program Director**

- 1. The sponsoring law school(s) must provide a program director who will be present on site for the duration of the program and who must be appointed with the approval of each of the sponsoring law schools.
- 2. The same person may serve as both the program director and as the faculty member assigned to fulfill subsection A.1.
- 3. The requirement of a continuous presence of the program director may be satisfied by having more than one program director at different times as long as one program director who fulfills subsection B.1. is on site at all times and there is provision for continuity of administration and oversight.
- 4. The director may not participate concurrently in another program.

5. The director shall have had some experience with the same or a similar program or possess a background that is an adequate substitute for such experience.

C. Program Faculty

1. Faculty members who are not from the sponsoring law school(s) shall possess academic credentials equivalent to those of the faculty at the sponsoring law school(s) and must be approved to teach in the program in the same manner as required for an adjunct faculty appointment at the sponsoring law school(s).
2. All faculty teaching in the program must be able to communicate effectively with the students in the language of instruction used in the program.

D. The program director or at least one member of the full-time faculty or on-site staff must:

1. Be fluent in both English and the language of the host country, and
2. Be familiar with the country in which the program is offered.

**III. Program Administration**

- A. The program must have a staffed administrative office or other mechanism in place that is convenient to students and through which the students may communicate effectively with staff and faculty in a timely manner.
- B. Students must be provided with the name and contact information of the program director or another responsible person on site who can be reached at all times during the program.

**IV. Educational Program**

A. Length of program

1. Foreign summer and intersession programs must provide adequate time for class preparation, reflection and intellectual maturation similar to that provided in the regular semester.
2. No student shall receive more than 1.5 semester credit hours for each week of the program.
3. No student shall be in class more than 220 minutes per day, excluding breaks.

- B. Credit shall be stated in terms of credit hours according to the following formula: one semester hour for each 700 minutes of class time or equivalent or one quarter hour for each 450 minutes of class time or equivalent.

C. Instruction Conducted in a Foreign Language

1. When instruction is offered in a foreign language with consecutive English interpretation, the time expended in class is not commensurate with class time spent when instruction is in English. For purposes of calculating required class minutes for required credit hours, classes in which consecutive interpretation is needed may not count more than fifty (50) percent of actual class time expended.
2. When instruction is offered in a foreign language with simultaneous English interpretation, the time expended in class is commensurate with class time spent when instruction is in English. For purposes of calculating required class minutes for required credit hours, classes in which a

simultaneous interpretation is needed may be counted at one hundred (100) percent of actual class time expended.

- D. If credit is given for externship placements (e.g., in a law firm, government office, or corporation), then faculty supervision must be individualized and integrated with classroom work to ensure that the credit allowed is commensurate with the educational benefit to the participating student. Additionally, the program must meet the other requirements of Standard 305(d) and (e) and Interpretations thereof (i.e., a clear statement of goals and methods; adequate instructional resources to supervise program and be available to students; clearly articulated methods for evaluating student performance involving both a faculty member and a field placement supervisor; methods for selecting, training, evaluating and communicating with field placement supervisors; periodic review following the school's established procedures for approval of the curriculum).
- E. If credit is given for Distance Education courses, those courses and credits must comply with the requirements of Standard 306 and the Interpretation of that Standard.
- F. The sponsoring law school(s) determine(s) whether specific prerequisites are required for enrollment in certain courses.
- G. Although a student in an ABA-approved law school may be permitted to take courses in foreign segment programs during the course of study toward the J.D. degree, the total credits in foreign segments shall not exceed one-third of the credits required for the J.D. degree at the law school in which the student is enrolled.
- H. Visits to legal institutions
  - 1. The program shall include at least two visits to legal institutions in the host country.
  - 2. Time or a portion of the time allocated for visits to legal institutions is not included in the 220 maximum class minutes per day but may be calculated in the 700 minutes per class credit hour only when the content of the visit is academic in nature and specifically related to the class for which the credit is being awarded.
- I. If course materials, including all case, statutory, and text materials needed for full understanding of the course and completion of assignments, are not self-contained, then adequate library resources must be available.
- J. The sponsoring law school(s) shall offer students at or shortly after the conclusion of the program an opportunity to evaluate in writing both the study abroad program and the faculty and courses offered in the program.

## **V. Students**

- A. The sponsoring law school(s) determines the academic criteria for admission to the program.
- B. Students enrolling in a foreign summer or intersession program for credit toward a J.D. degree must have completed at least one year of full- or part-time law study at an ABA-approved law school or a law school described in Standard 506(a)(1) prior to enrolling.
- C. All students must furnish a letter or other documentation from their dean or registrar certifying their current good standing.

- D. The sponsoring law school(s) may include participants other than those described in V.B., provided that such participation does not detract from the law school's ability to maintain a program that meets the requirements of these Criteria and the Standards.

## **VI. Physical Facilities**

- A. Faculty members should be provided with appropriate work space.
- B. Classrooms must provide adequate seating with writing surfaces for students, sufficient lighting, and adequate soundproofing.
- C. Equipment necessary for the teaching of scheduled courses and administration of the program must be provided.
- D. If course work depends upon library facilities, then those facilities must be convenient and accessible to students during normal working hours.
- E. Adequate facilities for studying must be available to students.
- F. Housing
1. Students must be informed if the housing made available by the program is significantly lower in quality or safety than housing normally used by law students in the U.S. and must be provided with information regarding the cost and availability of better quality housing in the same area.
  2. If the program does not provide housing, information on the availability, quality, approximate cost, and location of housing must be provided.

## **VII. Cancellation, Change, or Termination of Programs**

- A. Program Cancellation
1. If a program is subject to cancellation for insufficient enrollment or any other reason, the circumstances under which cancellation will occur must be disclosed in accordance with Section VIII.
  2. For cancellation that occurs after a deposit has been paid, the program director must use his or her best efforts to make arrangements for each student enrolled to attend a similar program, if the student so desires.
- B. If changes are made in the course offerings or other significant aspects of the program, those changes must be communicated promptly to any registrant who has paid a deposit or registered for the program, and an opportunity must be provided for that person to withdraw.
- C. State Department Travel Information
1. As part of the registration materials for the program, the school shall supply the U.S. State Department Country-Specific Information for the country(ies) in which the program will be conducted. If the Country-Specific Information for the country(ies) is revised prior to or during a program the updated information must be distributed promptly to students.



## 2. Travel Warnings and Travel Alerts

- a. If, prior to the commencement of a program, a U.S. State Department Travel Warning or Alert covering program dates and destinations is issued for the country(ies) in which the program will be conducted, all registrants must be notified promptly and be given an opportunity to withdraw from the program.
- b. If, during the course of a program, a U.S. State Department Travel Warning or Alert covering program dates and destinations is issued for the country(ies) in which the program is being conducted, students must be notified promptly and given an opportunity to withdraw from the program.

## D. Refund Policy

1. If students withdraw as permitted in Sections VII.B, VII.C.2.(a) or VII.C.2.(b) prior to the commencement of the program, or if a program is canceled, students must receive a full refund of all monies advanced within twenty (20) days after the cancellation or withdrawal.
2. If students withdraw as permitted in Sections VII.B., VII.C.2.(a) or VII.C.2.(b) during the course of the program, or if the program is terminated, students must be refunded fees paid except for room and board payments utilized prior to the date of termination or withdrawal.

## VIII. Disclosures

The following information must be disclosed when program information is initially made available to prospective students (i.e., on the program website, in the initial announcement or brochure, and in any communication sent directly to prospective students):

1. Dates, location(s), description of the program, and anticipated enrollment;
2. The nature of the relationship with the foreign institution, if any, other than the provision of facilities and minimal services;
3. The number of students who participated in the program the previous year from the sponsoring law school(s) and the number from other schools (if the program is open to other students);
4. If the program is not limited to students from U.S. law schools, the countries likely to be represented and the expected number of students from those countries;
5. Description of each course and number of credit hours;
6. Schedule of classes with days and times for each class;
7. Requirements for student performance and grading method;
8. Enrollment limitations on any courses offered and criteria for enrollment, including prerequisites;
9. A statement that acceptance of any credit or grade for any course taken in the program, including externships and other clinical offerings, is subject to determination by the student's home school;
10. Descriptive biography of the program director;
11. Descriptive biographies, including academic credentials and experience, of each faculty member responsible for teaching a course or any portion of a course;
12. Name, address, telephone, e-mail and fax number of an informed contact person at (each of) the sponsoring law school(s);
13. Complete statement of all tuition, fees, anticipated living costs, and other expected expenses;
14. Description and location of classrooms and administrative offices;

15. The extent to which the country, city, and facilities are accessible to individuals with disabilities;
16. Circumstances under which the program is subject to cancellation, how cancellation will be communicated to the student; what arrangements will be made in the event of cancellation, and information about any prior cancellations, if any;
17. State Department Travel Information;
18. Refund policy in the event of student withdrawal as permitted in Section VII, or program cancellation or termination;
19. Description of the housing made available by the program. (See criterion VI.F.)

## **IX. Procedures for Approval**

### **A. New Programs**

1. A law school or schools seeking to establish a new program must submit a New Program Questionnaire in the year preceding the first offering of the new program by October 1 for Summer programs and March 1 for Intersession programs.
2. On the basis of the written submission, the Accreditation Committee will determine whether to approve the program for its first year of operation. Approval will be granted only if the law school demonstrates that the proposed program complies with the Criteria.
3. If the Accreditation Committee grants approval, the program will be evaluated with a site visit during its first year of operation. The Accreditation Committee will then determine whether to approve the program for further operation on the basis of the site evaluation and written materials submitted by the law school.
4. A law school may not advertise or market any program prior to submitting a request for approval of the program. Any advertising or marketing that is done prior to program approval must clearly indicate that the program is pending approval by the Accreditation Committee.
5. Approval after the first year, if granted, is effective for five years.

### **B. Monitoring of Approved Programs**

1. A law school shall complete an Annual Questionnaire for each approved Foreign Summer and Intersession Program by October 31.
2. A site visit will be held five years after initial approval of a new program and every seven years thereafter.
3. For each program subject to a site visit, a law school shall file a Foreign Summer and Intersession Program Site Visit Questionnaire by March 1 for Foreign Summer programs and by October 1 for Foreign Intersession programs.

### **C. Significant Change in Program**

1. If an approved program undergoes a significant change, written notice of such change shall be provided to the Consultant in the year prior to the implementation of the proposed change no later than October 1 for Summer programs and March 1 for Intersession programs.
2. The Accreditation Committee will review the information submitted concerning the proposed change and determine whether a site evaluation is necessary to evaluate the program's compliance with the Criteria in light of the changes in the program. If the Committee determines that such a

site evaluation is necessary, the sponsoring law school(s) will be required to pay the fee established for a Site Visit in Connection with a Significant Change in a Foreign Program.

3. Examples of changes that require approval by the Accreditation Committee include, without limitation:
  - a. change in program location;
  - b. significant changes in program administration;
  - c. changes in the curriculum that significantly reduce the comparative or international focus of the program;
  - d. significant increase in the enrollment expectations for the program;
  - e. adding a new externship program or a substantial increase in the enrollment in existing externship programs;
  - f. changes in the language of instruction in the program;
  - g. new agreements to co-sponsor the program with another ABA-approved law school; or
  - h. significant changes in the housing arrangements for students.

D. Additional Review

1. The Accreditation Committee may ask for further information or direct a site visit of an approved program in any year where responses to the questionnaire suggest that the program is out of compliance with these Criteria or that the program has so substantially changed its focus or operation that its compliance with the Criteria cannot be determined without further information and, potentially, a site visit.
  2. Examples of actions or changes that might trigger this review include:
    - a. failure to timely file the annual questionnaire;
    - b. submitting an incomplete questionnaire;
    - c. number and nature of the concerns raised in the most recent review of the program;
    - d. failure to notify the Office of the Consultant of a significant change as required in part C; and
    - e. a persistent pattern of complaints by students in the program regarding the quality of the educational experience or the administration of the program.
- E. Withdrawal of Approval. If it is determined that a program is operating out of compliance with these Criteria, approval may be withdrawn by the Accreditation Committee in accordance with Rule 13 of the Rules of Procedure for Approval of Law Schools.
- F. Request for Variance. A law school proposing to offer a program that is inconsistent with the Criteria adopted by the Council may apply for a variance in accordance with Standard 802 of the Standards for Approval of Law Schools.
- G. Expiration of Approval. If an approved program is not offered in two consecutive years, approval is withdrawn and the sponsoring law school(s) must reapply for approval of the program as a new program. This requirement may be waived by the Accreditation Committee for good cause shown.

# Criteria for Student Study at a Foreign Institution

## Preamble

Standard 307 provides that a law school may not grant credit toward the J.D. degree for studies or activities in a foreign country unless those studies are approved in accordance with the Rules of Procedure and Criteria adopted by the American Bar Association's Council of the Section of Legal Education and Admissions to the Bar.

The three sets of Criteria approved by the Council provide a framework for law schools to grant students credit toward the J.D. degree for studies abroad. They seek to provide flexibility for a school to design programs and to permit study abroad consistent with the school's standards, culture and mission while maintaining a level of oversight of the school's program of legal education that is consistent with the role and scope of the Standards for the Approval of Law Schools.

These Criteria implicitly recognize that the primary responsibility for determining the quality of the educational experience that its students will receive during a study abroad experience rests on the faculty and administration of the law school.

The ABA's oversight role with regard to foreign study is important for at least two reasons. They provide assurance of a sound legal educational experience at a foreign institution that has not been reviewed for compliance with the Standards for the Approval of Law Schools, is distant from the student's home school, and operates in a legal culture quite different from our own. They also provide assurance of a sound educational experience in study abroad sponsored by approved law schools. This is significant because most law schools allow their students to enroll for credit toward the J.D. degree in a foreign summer or semester abroad program sponsored by other approved schools relying on the ABA review and approval process to assure the soundness of those programs.

## I. The Program

- A. An ABA-approved law school may allow students to receive credit for law study at a foreign institution consistent with these Criteria.
  1. A school that approves six or fewer students over a consecutive three-year period for study at a particular foreign institution shall file an annual report with the Consultant's Office identifying the

students, institutions, courses taken, credit hours granted, grades received, and names of advisors at both the parent school and the foreign institution.

2. A school that approves 7 to 12 students over a consecutive three-year period for study at a particular foreign university, law school, institute or program shall:
  - a. Have a formal written agreement with the foreign institution that details the number and qualifications of students and describes the selection process, academic and other advising (at both the parent school and the foreign institution), course selection, grading, evaluation, attendance, and other relevant matters;
  - b. File this report and amendments or renewals with the Consultant's Office; and
  - c. File an annual report with the Consultant's Office that identifies the students who participated in the program that year, courses taken, credit hours granted, grades received, and names of advisors at both the parent school and the foreign institution.
3. A school that approves more than 12 students over a consecutive three-year period for study at a particular foreign institution is engaged in a Cooperative Program and shall comply with the provisions of Section II below.
4. The relevant three-year period is the three academic years prior to the current year. If a law school has exceeded the thresholds in subsections 1 and 2 above and wishes to send students to that foreign institution in the current year, then it must file the written agreement or apply for approval of a cooperative program by October 15 of the current academic year.
5. The program or course of study approved for credit toward the J.D. degree must be related to the socio-legal environment of the country in which the foreign institution is located or have an international or comparative focus.
6. A law school may not award credit for study at a foreign institution that does not comply with these Criteria.

#### B. The Parent School

1. The parent school must be a school that is approved by the American Bar Association.
2. Before approving any student's foreign study under these Criteria, the parent school shall develop and publish a statement that defines the educational objectives it seeks to achieve in allowing students to study abroad for credit toward the J.D. degree.
3. The parent school shall assume responsibility for approving course work and monitoring the study undertaken by any student who participates in a foreign study program. A faculty member or a law school administrator who has the training or experience to permit effective approval and monitoring of foreign study by law students may discharge this responsibility.

#### C. The Foreign Institution

1. The foreign institution will generally be one that is government sanctioned or recognized, if educational institutions are state regulated within the country; recognized or approved by an evaluation body, if such an agency exists within the country; or chartered to award first degrees in law by the appropriate authority within the country.
2. If the foreign institution does not award a first degree in law, then it shall provide assurances to the parent school that the quality of the educational experience that it can offer to a visiting student is at least equal to the experience that would be available to a student at such an institution in the country where that foreign institution is located. An institution that provides law training in

a country to individuals who are graduates of institutions that award a first degree in law may be such an institution.

3. The foreign institution shall appoint an advisor for each student who shall effectively supervise and monitor the student's study at the institution. That advisor may be a faculty member at the foreign institution or a law school administrator at the foreign institution who has the training or experience to discharge this responsibility.
4. The foreign institution shall have faculty members who possess academic credentials and experience in the legal profession similar to those of faculty at the parent school.

#### D. Educational Program

1. Only students who have completed one year of full-time or part-time study and are in good standing at the parent school may participate in foreign study under these Criteria. The parent school may set additional academic requirements for foreign study under these Criteria.
2. The student's academic program must be approved in advance by the parent school. The student and the student's advisor shall develop a written plan to define the educational objectives a student seeks to achieve during a period of study abroad. That plan shall specify the methods to be used in evaluating the student's attainment of those objectives.
3. If the foreign study is not at an institution with which the parent school has a formal written agreement, then the parent school shall obtain written assurance from the foreign institution that the school's and the student's proposed educational objectives can be achieved at that institution.
4. The parent school shall review course materials and sufficient written work of the student to ensure that the program meets standards equivalent to those employed at the parent school.
5. The parent school shall assure that a student approved for foreign study under these Criteria is fluent in the language of instruction.

#### E. Academic Credit; Residency

1. Maximum credits toward the J.D. degree for all foreign study shall not exceed one third of the credits required for the J.D. degree at the parent school.
2. The granting of residency credit shall comply with the requirements of Standard 304.
3. An exception to the Standards relating to class minutes and length of program is inherent in these Criteria.
4. No credit shall be awarded for:
  - a. Activities such as visits to legal and government institutions except in instances in which the content of such activities is academic in nature and is related to the course in which the credit is awarded.
  - b. Externship placements (e.g., in a law firm, government office, or corporation).
  - c. Distance Education courses.

#### F. Fees

1. Any fee imposed by the parent school or the foreign institution shall be rationally related to the cost of administering the service for which the fee is charged.
2. The parent school shall make known to students any costs in addition to tuition that are charged by the foreign institution, including any fee that is charged for transferring or receiving credit earned at the foreign institution.

- G. Upon receiving notification from the foreign institution of cancellation of a course in which a student had been approved to enroll under these Criteria, the parent school shall reexamine the student's study in light of the school's stated program for foreign study and the student's stated educational objectives for study abroad. The parent school shall determine whether the approved foreign study continues to satisfy those objectives.
- H. Except as modified by these Criteria or by necessary implication, the ABA Standards for Approval of Law Schools, Council and Accreditation Committee Policies, and Rules of Procedure shall apply to study pursuant to these Criteria.

## II. Cooperative Programs

- A. A law school that approves more than 12 students to study at a particular foreign institution in a three-year period as described in Section I.A.3. and 4. shall apply for approval of a Cooperative Program in the current year prior to approving any additional students for foreign study at that institution.
- B. Cooperative Program Agreement. The cooperative program shall be governed by a written agreement between the parent school and the foreign institution that is consistent with all sections of these Criteria.
- C. Program Director
  - 1. An on site director who shall be responsible to both the parent school and the foreign institution shall direct the cooperative program at its foreign site. The director shall either be a member of the law faculty from either the parent school or the foreign institution or a full-time administrator at either the parent school or the foreign institution who has the training or experience necessary to discharge this responsibility effectively.
    - a. If the director is a faculty member or administrator from the foreign institution, the person shall have spent a substantial period of time in residence at an ABA-approved school and shall have visited the parent school and demonstrated familiarity with its academic program prior to application for approval of the cooperative program.
    - b. If the director is a faculty member or administrator from the parent school, that person shall have spent a substantial period of time in residence at the foreign institution prior to application for approval of the cooperative program.
    - c. If the director is a faculty member or administrator from the parent school, that person may not participate concurrently in another foreign program.
  - 2. The director shall be provided with appropriate assistance including secretarial and student support services.
- D. Cooperative programs shall include visits to legal institutions in the host country.
- E. The foreign institution shall have library resources that are both accessible and adequate to meet the needs of students enrolled in the cooperative program. If course work to be undertaken by students in the program depends on access to U.S. legal materials, the parent school is responsible for making such materials available.
- F. Students

1. Enrollment in the foreign segment of an approved cooperative program shall be limited to the parent school's own students. A cooperative program, however, may involve an exchange of students between the parent school and the foreign institution.
2. The number of students enrolled in the program shall not exceed the number appropriate to the academic content of the program, available facilities, the number and availability of faculty members, the administrative support structure, and any special educational programs or goals.

#### G. Physical Facilities

1. An administrative office or offices must be provided through which students may communicate effectively with staff and faculty.
2. Classrooms shall be adequate to provide meaningful communication and exchange between students and faculty.
3. Students shall be provided with adequate space for study.

#### H. Housing

1. If housing is made available by the program and it is significantly lower in quality, soundproofing, sanitation, or safety than housing normally used by law students in the U.S., the housing must be described and information must be provided regarding the cost of better quality housing in the same area.
2. If the cooperative program does not provide housing, information on the availability, approximate cost, and location of housing must be provided.

#### I. Cancellation, Termination, Material Change in a Cooperative Program

1. Upon receiving notification from the foreign institution of cancellation of a course in which a student had been approved to enroll under these Criteria, the parent school shall reexamine the student's study in light of the school's stated program for foreign study and the student's stated educational objectives for study abroad. The parent school shall determine whether the approved foreign study continues to satisfy those objectives.
2. If a cooperative program is subject to cancellation for insufficient enrollment or any other reason, the circumstance under which cancellation will occur must be disclosed in the application materials sent to prospective students. If the program is canceled, all money advanced by the student shall be refunded within twenty (20) days after the date of cancellation.



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J. Disclosures

1. The following information must be published to each prospective registrant in a timely fashion, usually on a website for that purpose, in the initial announcement or brochure, or in writing directly to prospective registrants, but, in any event, prior to the date when the student must commit or pay a nonrefundable deposit, whichever is earlier.
  - a. Dates, location(s), description of the program and anticipated size of enrollment;
  - b. The nature of the relationship with the foreign institution other than the provision of facilities and minimal services;
  - c. The number of students who participated in the program the previous year and the number of visiting students from other U.S. law schools, if any;
  - d. If the foreign institution has visitors from non-U.S. law schools, the countries likely to be represented and the expected number of students from those countries;
  - e. Description of the curriculum available to the students and academic calendar of the foreign institution;
  - f. Requirements for student performance and grading methods;
  - g. Enrollment limitations, if any, on any courses offered and criteria for enrollment;
  - h. A statement that acceptance of any credit or grade for any course taken in the program is subject to determination by the parent school;
  - i. Descriptive biographies of the program director and the faculty of the foreign institution;
  - j. Name, address, telephone and fax number, if available, of an informed contact person at the parent school;
  - k. Complete statement of all tuition, fees, anticipated living costs, and other expected expenses;
  - l. The extent to which the country, city, and facilities are accessible to individuals with disabilities; and
  - m. Circumstances under which the program is subject to cancellation, what arrangements will be made in the event of cancellation and information regarding prior cancellations, if any.
2. If changes are made in any significant aspects of the cooperative program, those changes must be communicated promptly to any applicant who has paid a deposit or registered for the program, and an opportunity must be provided for that person to obtain a full refund of all fees paid.

## K. State Department and Travel Advisories

1. Consular Information Sheets
  - a. The parent school shall provide each student with the U.S. State Department Consular Information Sheet for any country in which the student will reside during study abroad; "Areas of Instability" must be included. If the Consular Information Sheet is revised during the program to announce an "Area of Instability" in the region in which the program is being conducted, the updated information must be distributed promptly to students.
  - b. If the program is held in an "Area of Instability" students must be permitted to withdraw upon learning that the site has been declared to be such an area. Students shall be refunded fees paid except for room and board payments utilized prior to the date the site was declared an "Area of Instability."

## 2. Travel Warnings

- a. If, prior to the commencement of a program, a U. S. State Department Travel Warning is issued for the country(ies) in which the program will be conducted, all registrants must be notified promptly of the warning and be given an opportunity to withdraw from the program. Students who withdraw shall receive a full refund of all monies advanced within twenty (20) days after withdrawal. In the event the program is canceled, students shall receive a full refund of all monies advanced within twenty (20) days after the cancellation.
- b. If, during the course of a program, a U. S. State Department Travel Warning is issued for the country(ies) in which the program is being conducted, students must be notified promptly of the warning and given an opportunity to withdraw from the program. Students who withdraw must be refunded fees paid except for room and board payments utilized prior to the date of withdrawal. If the program is terminated, students shall be refunded fees paid except for room and board payments utilized prior to the date the Travel Warning is issued.

### III. Procedures for Approval, Review and Monitoring of Cooperative Programs

- A. Established programs previously reviewed and approved by the Accreditation Committee will be reevaluated with a site visit every seven years.

#### B. New Programs

1. A school or schools seeking to establish a new program must submit an application in the form required by the Consultant's Office by October 1 of the year preceding the first offering of the new program. The application shall contain the following information regarding the impact of the program on the sponsoring school:
  - a. A statement of finances for the proposed program, including income and expenditures, and an assessment as to the degree to which funding for the program affects the program of the parent campus;
  - b. The current accreditation status of the sponsoring school; and
  - c. A statement of how the program relates to the academic program and mission of the sponsoring school.
2. On the basis of the written submission, the Accreditation Committee will determine whether to approve the program for its first year of operation.
3. If the Accreditation Committee grants approval, the program will be evaluated with a site visit during its first year of operation. The Accreditation Committee will then determine whether to approve the program for further operation on the basis of the site evaluation and written materials submitted by the school.

- C. Approval after the first year, if granted, is effective for five years. If the program continues to be approved following that review, then the program will be subject to continuing review in accordance with paragraph A. above.

#### D. Monitoring of Approved Programs

1. If it is determined that a program is operating out of compliance with these Criteria, approval may be withdrawn by the Accreditation Committee.
2. To assist the Accreditation Committee in monitoring Cooperative Programs under Section I.A.3. and Section II of these Criteria, a questionnaire shall be filed each year. New programs

shall file a new program questionnaire by October 1. Approved programs shall file an annual questionnaire by October 1 and programs subject to a site visit shall file a site visit questionnaire by October 15.

3. The Accreditation Committee may ask for further information or direct a site visit of an approved program in any year where responses to the questionnaire suggest that the program is out of compliance with these Criteria or that the program has so substantially changed its focus or operation that its compliance with the Criteria cannot be determined without further information and, potentially, a site visit. Examples of actions or changes that might trigger this review include:
  - a. failure to timely file the annual questionnaire;
  - b. submitting an incomplete questionnaire;
  - c. number and nature of the concerns raised in the most recent review of the program;
  - d. changes in the curriculum that significantly reduce the comparative or international focus of the program;
  - e. continuing turnover in the administration of the program;
  - f. significant change in the enrollment in the program; and
  - g. a persistent pattern of complaints by students in the program regarding the quality of the educational experience or the administration of the program.

# Criteria for Approval of Foreign Semester and Year-Long Study Abroad Programs Established by ABA-Approved Law Schools

## Preamble

The Council has adopted three sets of Criteria applicable to study abroad: Criteria for Approval of Foreign Summer and Intersession Programs Established by ABA-Approved Law Schools; Criteria for Approval of Semester and Year-Long Study Abroad Programs Established by ABA-Approved Law Schools; and Criteria for Student Study at a Foreign Institution.

Standard 307 provides that a law school may not grant credit toward the J.D. degree for studies in a foreign country unless those studies are approved in accordance with the *Rules of Procedure for Approval of Law Schools* and *Criteria* adopted by the American Bar Association's Council of the Section of Legal Education and Admissions to the Bar.

The ABA's oversight role with regard to study abroad programs is designed to provide assurance of a sound educational experience in a study abroad program sponsored by an ABA-approved law school.

The Criteria related to study abroad provide a framework for law schools to grant students credit toward the J.D. degree for studies abroad. They seek to provide flexibility for a school to design programs and to permit study abroad consistent with the law school's mission while maintaining a level of oversight of the school's program of legal education that is consistent with the role and scope of the *Standards for the Approval of Law Schools*.

These Criteria recognize that the primary responsibility for determining the quality of the educational experience that students receive during a study abroad experience rests with the faculty and administration of the law school.

The *ABA Standards and Rules of Procedure for the Approval of Law Schools* shall apply to study abroad programs except as modified by the Criteria or by necessary implication.

## I. The Program

- A. The dean and faculty of the sponsoring law school (or schools if there is more than one sponsoring law school) are responsible for formulating and administering the foreign semester and year-long study abroad program.

- B. The faculty of each of the sponsoring law school(s) must approve the academic content of the program in the same manner as the curriculum of the sponsoring school's on-campus program.
- C. The academic content of the program must meet the same standards, including evaluation of student performance, as the on-campus program of the sponsoring school(s).
- D. A substantial portion of the academic program must relate to the socio-legal environment of the host country or have an international or comparative focus.
- E. The number of students enrolled in the program shall not exceed the number appropriate for the academic content of the program, available facilities, the number and availability of faculty members, the administrative support structure, and any special educational program goals.

## **II. Faculty and Staff**

### **A. Program Director**

- 1. The sponsoring law school(s) must provide a program director who will be present onsite for the duration of the program and who must be appointed with the approval of each of the sponsoring law schools.
- 2. The program director must be a tenured, tenure-track or full-time faculty member from the law school (or one of the co-sponsoring law schools). A visiting professor at one of the co-sponsoring law schools is not considered a full-time faculty member for purposes this provision.
- 3. The program director must be well qualified by experience with the sponsoring law school (or one of the co-sponsoring law schools) to provide leadership and appropriate faculty oversight of the program for the sponsoring school(s).
- 4. The requirement of a continuous presence of the program director may be satisfied by having more than one program director serving at different times as long as one program director who satisfies subsection A.1. is on site at all times and there is provision for continuity of administration and oversight.
- 5. The director may not participate concurrently in another program.
- 6. The director shall have had some experience with the same or a similar program or possess a background that is an adequate substitute for such experience.

### **B. Faculty and Additional Personnel**

- 1. In addition to the director, the sponsoring law school(s) shall assign at least one other person from the law school (or one of the co-sponsoring law schools) who will be present onsite for the duration of the program.
  - a. The second person from the law school (or one of the co-sponsoring law schools) must be:
    - i. a tenured, tenure-track, or full-time faculty member;
    - ii. a full-time administrator who works with study abroad or international programs; or
    - iii. a full-time visiting professor.
  - b. The requirement of a continuous presence of the second person may be satisfied by having different persons from the sponsoring law school(s) participating in the program at different times as long as one person who fulfills subsection B.1.(a) is on site at all times.

2. Faculty members who are not from the sponsoring law school(s) shall possess academic credentials equivalent to those of the faculty at the sponsoring law school(s) and must be approved to teach in the program in the same manner as required for an adjunct faculty appointment at the sponsoring law school(s).
  3. All faculty teaching in the program must be able to communicate effectively with the students in the language of instruction used in the program.
- C. The program director or at least one member of the full-time faculty or on-site staff must:
1. be fluent in both English and the language of the host country, and
  2. be familiar with the country in which the program is offered.

### **III. Program Administration**

- A. The program must have a staffed administrative office or other mechanism in place that is convenient to students and through which the students may communicate effectively with staff and faculty in a timely manner.
- B. Students must be provided with the name and contact information of the program director or another responsible person on site who can be reached at all times during the program.
- C. The program director shall be provided with appropriate assistance, including secretarial and administrative support.
- D. Faculty members shall be provided with adequate secretarial support services.

### **IV. Educational Program**

- A. Although a student in an ABA-approved law school may be permitted to take courses in foreign segment programs during the course of study toward the J.D. degree, the total credits in foreign segments shall not exceed one-third of the credits required for the J.D. degree at the law school in which the student is enrolled.
- B. Credit shall be stated in terms of credit hours according to the following formula: one semester hour for each 700 minutes of class time or equivalent or one quarter hour for each 450 minutes of class time or equivalent.
- C. Language of instruction
  1. If instruction is not in English, students must be fluent in the foreign language in which courses are taught or provided with a translation.
  2. When instruction is offered in a foreign language with consecutive English interpretation, the time expended in class is not commensurate with class time spent when instruction is in English. For purposes of calculating required class minutes for required class hours, classes in which consecutive translation is necessary may not count more than fifty (50) percent of actual class time expended.
  3. When instruction is offered in a foreign language with simultaneous English interpretation, the time expended in class is commensurate with class time spent when instruction is in English. For purposes of calculating required class minutes for required credit hours, classes in which a

simultaneous interpretation is needed may be counted at one hundred (100) percent of actual class time expended.

- D. If credit is given for externship placements (e.g., in a law firm, government office, or corporation), then faculty supervision must be individualized and integrated with classroom work to ensure that the credit allowed is commensurate with the educational benefit to the participating student. Additionally, the program must meet the other requirements of Standard 305(d) and (e) and Interpretations thereof. (i.e., a clear statement of goals and methods; adequate instructional resources to supervise program and be available to students; clearly articulated methods for evaluating student performance involving both a faculty member and a field placement supervisor; methods for selecting, training, evaluating and communicating with field placement supervisors; periodic review following the school's established procedures for approval of the curriculum.)
- E. If credit is given for Distance Education courses, those courses and credits must comply with the requirements of Standard 306 and the Interpretation of that Standard.
- F. The sponsoring law school(s) shall determine whether specific prerequisites are required for enrollment in certain courses.
- G. The program shall include at least two visits to legal institutions in the host country. Time or a portion of the time allocated for visits to legal institutions may be calculated in the 700 minutes per class credit hour only when the content of the visit is academic in nature and specifically related to the class for which the credit is being awarded.
- H. The sponsoring law school(s) shall offer students at or shortly after the conclusion of the program an opportunity to evaluate in writing both the foreign study program and the faculty and courses offered in the program.

## V. Library

- A. In accordance with Standards 601 and 702, the program must have or must provide acceptable access to a library and study facility adequate for its academic program. This requirement may entail development and supervision of the library holdings by the sponsoring law school librarian.
- B. Library holdings must be adequate to support the course offerings of the academic program, including any research component.

## VI. Students

- A. The sponsoring law school(s) shall determine the academic criteria for admission to the program.
- B. Students enrolling in a semester or year-long study abroad program for credit toward a J.D. degree must have completed at least one year of full- or part-time law study at an ABA-approved law school or a law school described in Standard 506(a)(1) prior to enrolling.
- C. All students must furnish a letter or other documentation from their dean or registrar certifying their current good standing.

- D. The sponsoring law school(s) may include participants other than those described in VI.B., provided that such participation does not detract from the law school's ability to maintain a program that meets the requirements of these Criteria and the Standards.

## **VII. Physical Facilities**

- A. The faculty shall be provided with office space adequate to achieve the purposes of the program.
- B. Classrooms must provide adequate seating with writing surfaces for students, sufficient lighting, and adequate soundproofing.
- C. Equipment necessary for the teaching of scheduled courses and administration of the program must be provided.
- D. Adequate facilities for studying must be available to students.
- E. Housing
1. Students must be informed if the housing made available by the program is significantly lower in quality, sanitation, or safety than housing normally used by law students in the U.S. and must be provided with information regarding the cost and availability of better quality housing in the same area.
  2. If the program does not provide housing, information on the availability, quality, approximate cost, and location of housing must be provided.

## **VIII. Cancellation, Change, or Termination of Programs**

- A. If a program is subject to cancellation for insufficient enrollment or any other reason, the circumstances under which cancellation will occur must be disclosed in accordance with Section IX.15.
- B. If a program is subject to cancellation, application materials must include information regarding what arrangements will be made in the event of cancellation, as well as any history of prior cancellations.
- C. If changes are made in the course offerings or other significant aspects of the program, those changes must be communicated promptly to any registrant who has paid a deposit or registered for the program, and an opportunity must be provided for that person to withdraw.
- D. State Department Travel Information
1. As part of the registration materials for the program, the school shall supply the U.S. State Department Country-Specific Information for the country(ies) in which the program will be conducted. If the Country-Specific Information for the country(ies) is revised prior to or during a program the updated information must be distributed promptly to students.
  2. Travel Warnings and Travel Alerts
    - a. If, prior to the commencement of a program, a U.S. State Department Travel Warning or Alert covering program dates and destinations is issued for the country(ies) in which the program will be conducted, all registrants must be notified promptly and be given an opportunity to withdraw from the program.



- b. If, during the course of a program, a U.S. State Department Travel Warning or Alert covering program dates and destinations is issued for the country(ies) in which the program is being conducted, students must be notified promptly and given an opportunity to withdraw from the program.

#### E. Refund Policy

1. If students withdraw as permitted in Sections VIII.C., VIII.D.2.(a) or VIII.D.2.(b) prior to the commencement of the program, or if a program is canceled, students must receive a full refund of all monies advanced within twenty (20) days after the cancellation or withdrawal.
2. If students withdraw as permitted in Sections VIII.C., VIII.D.2.(a) or VIII.D.2.(b) during the course of the program, or if the program is terminated, students must be refunded fees paid except for room and board payments utilized prior to the date of termination or withdrawal.

### IX. Disclosures

The following information must be disclosed when program information is initially made available to prospective students (i.e., on the program website, in the initial announcement or brochure, and in any communication sent directly to prospective students):

1. Dates, location(s), description of the program, and anticipated enrollment;
2. The nature of the relationship with the foreign institution, if any, other than the provision of facilities and minimal services;
3. The number of students who participated in the program the previous year from the sponsoring law school(s) and the number from other schools (if the program is open to other students);
4. If the program is not limited to students from U.S. law schools, the countries likely to be represented and the expected number of students from those countries;
5. Description of each course and number of credit hours;
6. Schedule of classes with days and times for each class;
7. Requirements for student performance and grading method;
8. Enrollment limitations on any courses offered and criteria for enrollment, including prerequisites;
9. A statement that acceptance of any credit or grade for any course taken in the program, including externships and other clinical offerings, is subject to determination by the student's home school;
10. Descriptive biographies of program director;
11. Descriptive biographies, including academic credentials and experience, of each faculty member responsible for teaching a course or any portion of a course;
12. Name, address, telephone, e-mail and fax number of an informed contact person at (each of) the sponsoring law school(s);
13. Complete statement of all tuition, fees, anticipated living costs, and other expected expenses;
14. Description and location of classrooms and administrative offices;
15. The extent to which the country, city, and facilities are accessible to individuals with disabilities;
16. Circumstances under which the program is subject to cancellation, how cancellation will be communicated to the students; what arrangements will be made in the event of cancellation, and information about any prior cancellations, if any;

17. State Department Travel Information; and
18. Refund policy in the event of student withdrawal as permitted in Section VIII, or program cancellation or termination.
19. Description of the housing made available by the program. (See criterion V.I.F.)

## **X. Procedures for Approval**

### **A. New Programs**

1. A law school or schools seeking to establish a new program must submit a New Program Questionnaire in the year preceding the first offering of the new program by October 1.
2. On the basis of the written submission, the Accreditation Committee will determine whether to approve the program for its first year of operation. Approval will be granted only if the law school demonstrates that the proposed program complies with the Criteria.
3. If the Accreditation Committee grants approval, the program will be evaluated with a site visit during its first year of operation. The Accreditation Committee will then determine whether to approve the program for further operation on the basis of the site evaluation and written materials submitted by the law school.
4. A law school may not advertise or market any program prior to submitting a request for approval of the program. Any advertising or marketing that is done prior to program approval must clearly indicate that the program is pending approval by the Accreditation Committee.
5. Approval after the first year, if granted, is effective for five years.

### **B. Monitoring of Approved Programs**

1. A law school shall complete an Annual Questionnaire for each approved Foreign Semester and Year-Long Study Abroad Program by October 31.
2. A site visit will be held five years after initial approval of a new program and every seven years thereafter.
3. For each program subject to a site visit, a law school shall file a Foreign Semester and Year-Long Study Abroad Program Site Visit Questionnaire by March 1.

### **C. Significant Change in Program**

1. If an approved program undergoes a significant change, written notice of such change shall be provided to the Consultant in the year prior to the implementation of the proposed change no later than October 1.
2. The Accreditation Committee will review the information submitted concerning the proposed change and determine whether a site evaluation is necessary to evaluate the program's compliance with the Criteria in light of the changes in the program. If the Committee determines that such a site evaluation is necessary, the sponsoring law school(s) will be required to pay the fee established for a Site Visit in Connection with a Significant Change in a Foreign Program.
3. Examples of changes that require approval by the Accreditation Committee include, without limitation:
  - a. change in program location;
  - b. significant changes in program administration;

- c. changes in the curriculum that significantly reduce the comparative or international focus of the program;
- d. significant increase in the enrollment expectations for the program;
- e. adding a new externship program or a substantial increase in the enrollment in existing externship programs;
- f. changes in the language of instruction in the program;
- g. new agreements to co-sponsor the program with another ABA-approved law school; or
- h. significant changes in the housing arrangements for students.

D. Additional Review

1. The Accreditation Committee may ask for further information or direct a site visit of an approved program in any year where responses to the questionnaire suggest that the program is out of compliance with these Criteria or that the program has so substantially changed its focus or operation that its compliance with the Criteria cannot be determined without further information and, potentially, a site visit.
  2. Examples of actions or changes that might trigger this review include:
    - a. failure to timely file the annual questionnaire;
    - b. submitting an incomplete questionnaire;
    - c. number and nature of the concerns raised in the most recent review of the program;
    - d. failure to notify the Office of the Consultant of a significant change as required in part C; and
    - e. a persistent pattern of complaints by students in the program regarding the quality of the educational experience or the administration of the program.
- E. Withdrawal of Approval. If it is determined that a program is operating out of compliance with these Criteria, approval may be withdrawn by the Accreditation Committee in accordance with Rule 13 of the Rules of Procedure for Approval of Law Schools.
- F. Request for Variance. A law school proposing to offer a program that is inconsistent with the Criteria adopted by the Council may apply for a variance in accordance with Standard 802 of the Standards for Approval of Law Schools.
- G. Expiration of Approval. If an approved program is not offered in two consecutive years, approval is withdrawn and the sponsoring law school(s) must reapply for approval of the program as a new program. This requirement may be waived by the Accreditation Committee for good cause shown.

# Section Bylaws

(Approved by Section Council: August 7, 2010)

## ARTICLE I NAME, PURPOSES

### Section 1. Name.

This section shall be known as the Section of Legal Education and Admissions to the Bar and herein referred to as the "Section."

### Section 2. Purposes.

The purposes of this Section as stated in its Mission Statement are:

- to be a creative national force in providing leadership and services to those responsible for and those who benefit from a sound program of legal education and bar admissions,
- to provide a fair, effective, and efficient accrediting system for American law schools,
- to serve, through its Council, as the nationally recognized accrediting body for American law schools.

In particular the Section through its Council shall:

- (a) establish standards and procedures to be met and observed by law schools in obtaining and retaining the approval of the Council, which standards and procedures shall be publicly available;
- (b) receive and process applications of law schools for provisional or full approval, grant or deny such applications, and withdraw, suspend or terminate approval of law schools;
- (c) consider policies and resolutions referred to it by the Board of Governors or the House of Delegates;
- (d) study and make recommendations in cooperation with the National Conference of Bar Examiners, the Conference of Chief Justices and bar admissions authorities for the improvement of the bar admission process; and

- (e) foster close cooperation among legal educators, practitioners, judges and law students through workshops, conferences and publications.

## **ARTICLE II**

### **MEMBERSHIP**

#### **Section 1. Members.**

- (a) Any member of the Association in good standing shall be a member of the Section upon request to the Secretary of the Association and the payment of the annual Section dues.
- (b) Any member of the Law Student Division of the Association in good standing shall be enrolled as a Law Student Division member of the Section upon request to the Secretary of the Association and the payment of the annual Section dues applicable to members of the Law Student Division. Law Student Division members shall not be eligible to vote or serve as officers, but shall have the privilege of the floor at Section meetings, including the privilege to make motions and present resolutions, and shall receive Section publications on the same basis as lawyer members of the Section.
- (c) Any individual who is an associate of the Association, upon payment of the dues as provided for Associates of the Section, shall be enrolled as an Associate of the Section. The privileges of Associates shall be prescribed by the Bylaws of the Association and by guidelines adopted by the Board of Governors.

#### **Section 2. Dues.**

Upon recommendation of the Council, and, where necessary, approval of the Board of Governors, the Section may establish the amount of the annual dues to the Section for continued membership in the Section.

#### **Section 3. Termination of Membership.**

Any member of the Section whose annual Section dues are more than six months past due shall cease to be a member of the Section. Any person who ceases to be a member of the Association shall also cease to be a member of the Section.

## **ARTICLE III**

### **SECTION MEETINGS**

#### **Section 1. Annual Meeting.**

The Section shall meet immediately before or during the Annual Meeting of the Association, in the same city or place as the Annual Meeting of the Association, with such agenda, program and order of business as the Council or the Chairperson with the approval of the Council may arrange.

**Section 2. Special Meetings.**

The Section may hold other meetings of its membership during the year, provided that the Board of Governors approves the times and places of other meetings.

**Section 3. Quorum.**

The members of the Section present at a meeting of the membership shall constitute a quorum for the transaction of business.

**Section 4. Agenda.**

The agenda of the annual meeting of the membership shall consist of the election of officers and members of the Council, the annual report of the Consultant, and such other matters as the Chairperson of the Section or the Council deems appropriate. The agenda shall be published on the Section's website by July 15. The agenda of a special meeting of the membership shall consist of those matters that the Chairperson of the Section or the Council deems appropriate and of which notice has been given by publication on the Section's website at least ten (10) business days before the date of the special meeting.

**Section 5. Voting.**

Voting and privilege of the floor at any meeting of the Section is limited to Section members recorded 45 days prior to the meeting. The Secretary shall make this official membership roster open for inspection at any meeting to which it is applicable. All substantive action of the Section shall be by a majority vote of the members present and voting at a duly called meeting, except in those cases in which a referendum by mail ballot may be authorized by the Council pursuant to Article IV, Section (1)(e).

**Section 6. Parliamentary Authority.**

The Chairperson shall preside at all meetings of the Section. The conduct of the meetings shall in general conform to these Bylaws and to Robert's Rules of Order.

**Section 7. Notice.**

Unless otherwise specified in these Bylaws, all notices required or permitted in the Bylaws may be by written notice, e-mail, or other manner of electronic communication and/or publication on the Section website, as the Council may direct.

## ARTICLE IV COUNCIL

### Section 1. Powers and Functions.

- (a) The Council shall be vested with the powers and duties necessary for the administration of the business of the Section. It shall authorize all commitments for expenditures of Section monies.
- (b) The Council shall develop separate budgets for the Accreditation of Law Schools Project and for other activities of the Section. The Accreditation Project budget will not be subject to review of, approval by, or consultation with the Board of Governors of the Association or any other entity outside the Section. The budget for the activities of the Section other than the Accreditation Project will be subject to the Association's regular budget process. With respect to those activities other than the Accreditation Project, the Council shall not authorize commitments for expenditures in a fiscal year that would exceed the income and reserves of the Section for that fiscal year without approval of the Board of Governors.
- (c) The Council is authorized to establish and organize committees and other entities. The Council shall establish an appropriate chain of responsibility for any committee or entity that it creates. No Section committee or other entity shall have authority to speak for the Section unless specifically authorized by these Bylaws or by the Council.
- (d) Between meetings of the membership, the Council shall have authority to conduct the business of the Section. The Council shall report to the membership of the Section at each annual meeting any actions taken pursuant to this subsection since the last meeting of the membership of the Section.
- (e) The Council may direct a referendum by mail or electronic ballot of Section members as defined in Article III, Section 5. A majority of the votes cast in the referendum shall determine the policy of the Section with respect to the question submitted. Such referendum shall be conducted according to rules established by the Council and the results shall be certified by the Secretary.
- (f) At appropriate times, as determined by the Section Officers Conference, the Council is authorized to submit a nomination for a Section member-at-large of the Board of Governors. Notice of an opening for this position and the procedure to be followed for submitting nominations shall be published on the Section website at least sixty (60) days before the Council decides on the nominee. The selection of the nominee shall be made by the Council with due regard for the eligibility requirements for election to the Board of Governors.

### Section 2. Qualifications of Members of the Council.

Members of the Council of the Section shall be chosen without reference to their race, color, creed, gender, age, disability, sexual orientation or national origin. Members of the Council shall be persons of integrity and intelligence who have evidenced interest in legal education or admission to the bar and whose participation is likely to be guided by the interests of the public and by the high standards of the legal profession, rather than any personal interest. Members of the Council (with the exception of public members) shall be members of the Section.

### **Section 3. Composition.**

The Council shall be composed of the following voting members: the Officers of the Section; fifteen members-at-large, who shall include public members whose qualifications and election are consistent with the regulations of the United States Department of Education applicable to the accreditation of professional schools; and a representative of the Law Student Division to be selected for nomination by the Nominating Committee from a slate of three nominees recommended to the Section by the Law Student Division no later than May 1 of each year. The Council shall include legal educators, practitioners, members of the judiciary, and representatives of the public. No more than fifty percent of the voting members of the Council may be persons whose current primary professional employment is as a law school dean, faculty or staff member.

### **Section 4. Terms.**

The term of a member-at-large is three Association years beginning with the adjournment of the Annual Meeting during which the member is elected. The terms of at least one third of the members-at-large shall expire each year. No member-at-large may serve more than two successive three-year terms in that capacity or more than a total of six years as a member-at-large. Members may, however, be elected to serve additional terms as Officers.

### **Section 5. Meetings.**

- (a) The Council shall hold at least one regular meeting each year at the time and place of the Annual Meeting of the Association. The Chairperson may call other regular meetings of the Council at times and places determined by the Chairperson. The Chairperson shall, upon request of five members of the Council, call special meetings of the Council between annual meetings. Meetings of the Council other than the meeting at the Annual Meeting of the Association may be held by means of telecommunications which permit direct communication among all members participating. Subject to consent of the Chairperson, and when good cause prevents in-person participation, individual members of the Council may participate in meetings of the Council by means of telecommunications.
- (b) There shall be neither absentee nor proxy voting.
- (c) If a meeting of the Council is not feasible, the Chairperson of the Section shall, upon the written request of five members of the Council, submit in writing to each of the members of the Council any item upon which the Council may be authorized to act. The members of the Council may vote upon the proposition either by written or electronic ballot or by telephone vote, confirmed in writing, to the Secretary of the Section who shall record the proposition and votes on the matter.

### **Section 6. Compensation.**

No salary or compensation for services shall be paid to any Officer, member of the Council, or member of any committee, except as may be specifically authorized by the Board of Governors.

### **Section 7. Vacancies.**

If any member of the Council shall fail to attend two successive meetings of the Council, the member's seat on the Council shall be automatically vacated unless he or she is excused for good cause by action of the



Executive Committee. If there is a vacancy in the position of a member-at-large the vacancy shall be filled by the Council from one or more nominations received from the Nominating Committee (See Article VIII). Members so elected shall serve the remainder of the term for which their predecessors were elected. In the case of a vacancy in the position of the Law Student Division representative, the Council may request the Law Student Division to propose another representative.

### **Section 8. Liaisons from Other Association Entities.**

The Council shall permit a duly designated representative from the Young Lawyers Division and the Board of Governors to attend meetings of the Council in open and closed session and to have the privileges of the floor at such meetings. Such liaison representatives are not entitled to vote. Attendance at a closed session dealing with accreditation matters is limited to Council members and Section Delegates and those determined by the Council to be necessary for the conduct of its business. Attendance at other closed sessions may include the duly designated representative from the Young Lawyers Division and the Board of Governors. No liaisons appointed by other ABA entities may attend closed sessions of the Council.

## **ARTICLE V OFFICERS**

### **Section 1. Officers.**

The Officers of the Section shall be the Chairperson, the Chairperson-Elect, the Vice-Chairperson, the Secretary, and the Immediate Past Chairperson of the Section.

### **Section 2. Chairperson.**

The Chairperson shall:

- (a) preside at all meetings of the members of the Section and of the Council;
  - (b) appoint the chairperson and members of all committees of the Section who are to be appointed during his or her term as Chairperson;
  - (c) plan the program of the Section during his or her term, subject to the directions and approval of the Council;
  - (d) oversee the performance of all activities of the Section;
  - (e) keep the Council informed of the activities of the Section and oversee the implementation of its decisions;
  - (f) communicate on a regular basis with the Consultant and serve as the Consultant's immediate supervisor;
- and

- (g) perform such other duties and acts as usually pertain to the office of Chairperson or as may be designated by the Council.

### **Section 3. Chairperson-Elect.**

The Chairperson-Elect shall:

- (a) aid the Chairperson in the performance of the Chairperson's responsibilities in the manner and to the extent as the Chairperson may request;
- (b) preside at meetings of the Section and the Council in the absence of the Chairperson; and
- (c) perform the duties and have the powers that usually pertain to the office or as may be designated by the Council or the Chairperson.
- (d) In case of the death, resignation, or disability of the Chairperson, the Chairperson-Elect shall perform the duties of the Chairperson for the remainder of the Chairperson's term or disability.

### **Section 4. Vice-Chairperson.**

The Vice-Chairperson shall:

- (a) aid the Chairperson in the performance of the responsibilities of the office of Chairperson in the manner and to the extent the Chairperson may request; and
- (b) preside at meetings of the Section and the Council in the absence of the Chairperson and Chairperson-Elect.

### **Section 5. Secretary.**

The Secretary shall:

- (a) consult with and assist the other Officers of the Section in the work of the Section in the manner and to the extent requested;
- (b) be the liaison between the Section and the Association staff with respect to the retention and maintenance of books, papers, documents, and other property pertaining to the work of the Section; and
- (c) supervise the keeping of a true record of the proceedings of all meetings of the Section and of the Council.
- (d) confirm the eligibility of those nominated by petition.

### **Section 6. Terms.**

- (a) The term of the Chairperson, Chairperson-Elect and the Vice-Chairperson is one Association year, beginning with the adjournment of the Annual Meeting of the Association during which he or she is elected.
- (b) The Secretary shall serve a two year term beginning with the adjournment of the Annual Meeting of the Association during which he or she is elected. A Secretary may serve no more than two terms as Secretary.

- (c) The Chairperson shall not be eligible for re-election as Chairperson or Chairperson-Elect. The Chairperson-Elect becomes the Chairperson upon the adjournment of the next Annual Meeting of the Association after he or she was elected Chairperson-Elect and is not again eligible for either office.
- (d) The Immediate Past Chairperson shall serve a term of one year after expiration of his or her term as Chairperson.

### **Section 7. Vacancies.**

The office of an Officer who fails to attend two successive meetings of the Council shall be automatically vacated unless the officer is excused for good cause by action of the Executive Committee. The Council, between annual meetings of the Section, may fill vacancies in the office of Chairperson-Elect, Vice-Chairperson or Secretary. Officers so elected shall serve until the adjournment of the next Annual Meeting of the Association, except a person elected as secretary who shall serve the remainder of the term of his or her predecessor. In the event of a vacancy in the position of Immediate Past Chairperson, that position shall not be filled.

### **Section 8. Consultant.**

The Council of the Section shall employ a Consultant on Legal Education to the American Bar Association, who shall be responsible to the Council, and shall perform such duties relating to the business of the Council as shall be prescribed by the Chairperson and the Council and shall assist the Officers and Council in furthering the work of the Section and of the Association. The Consultant shall supervise all staff employees of the Section.

## **ARTICLE VI EXECUTIVE COMMITTEE**

### **Section 1. Membership.**

There shall be an Executive Committee of the Council comprised of the Officers and two members-at-large. The Chairperson of the Section shall appoint the members-at-large to serve on the Executive Committee for a one-year term beginning at the adjournment of the annual meeting at which the Chairperson is elected. The membership of the Executive Committee should include practitioners, members of the judiciary, and at least two legal educators.

### **Section 2. Duties.**

The Executive Committee shall act on behalf of the Council concerning any matters that require action before the next meeting of the Council and shall have such duties as prescribed by the Council. The Executive Committee may not:

- (1) elect, appoint, or remove members of the Council or fill vacancies on the Council or any of its committees;

- (2) adopt, amend, or repeal the Bylaws; or
- (3) approve any action with respect to an accreditation matter, including variances or waivers of accreditation standards or rules.

### **Section 3. Notice and Actions.**

Each member of the Executive Committee shall receive notice of the meetings of the Committee. A vote of a majority of the total members of the Executive Committee shall be necessary for Executive Committee action. The Chairperson of the Section shall timely report the actions of the Executive Committee to the Council.

## **ARTICLE VII**

### **SECTION DELEGATES**

#### **Section 1. General.**

The Section Delegates shall represent the Section in the House of Delegates. At appropriate times, as determined by the Section Officers Conference, the Section Delegate so designated by the Council shall serve on the Nominating Committee of the House of Delegates.

#### **Section 2. Eligibility.**

To be eligible for the position of Section Delegate, a person must have served as a member-at-large on the Council. The term of a Section Delegate is three Association years beginning with the adjournment of the Annual Meeting of the Association during which the Delegate is elected. A Section Delegate may serve no more than two consecutive terms or more than a total of six years in this capacity for the Section. The terms of the Section Delegates shall be staggered.

#### **Section 3. Vacancies.**

If a Section Delegate fails to attend two successive regular meetings of the Council and/or two successive meetings of the House of Delegates, the position shall be automatically vacated unless the Delegate is excused for good cause by action of the Executive Committee. In the event of the absence or inability of a Section Delegate to serve, the Council shall appoint an individual to serve the remainder of the vacated term.

#### **Section 4. Voting.**

Section Delegates are entitled to attend meetings of the Council in open and closed session and to have the privileges of the floor at such meetings. Section Delegates are not entitled to vote at meetings of the Council.

## **ARTICLE VIII**

### **NOMINATING COMMITTEE**

#### **Section 1. Membership, Terms, and Qualifications.**

The Nominating Committee shall consist of eight members. Six members of the Committee shall be appointed by the Chairperson of the Section from the Section membership and shall serve one three-year term. The terms of one-third of the appointed members shall expire every year. Each Immediate Past Chairperson of the Section shall serve a two-year term on the Nominating Committee and shall act as Chairperson of the Nominating Committee in the second year of his or her term on the Committee. Membership on the Committee should include legal educators, practitioners and members of the judiciary. Terms commence at the adjournment of the Annual Meeting of the Association.

#### **Section 2. Nominations for General Elections.**

The Consultant shall solicit nominations from the membership of the Section to fill vacancies on the Council. One or more candidates may be nominated by the Nominating Committee for each position to be filled by election as provided in these Bylaws. The Nominating Committee shall report the identity of each nominee and shall include a brief statement of his or her activities in the Section, in legal education, and in the legal profession. The Nominating Committee shall submit its report to Section members no later than May 1. The report may be submitted to Section members by written notice, by e-mail or other digital communication, and/or publication on the Section website, as the Council may direct.

#### **Section 3. Nominations for Filling Vacancies.**

If there is a vacancy in a member-at-large position on the Council, the Nominating Committee shall provide the Council with one or more names of persons to serve the remainder of the unexpired term (see Article IV, Section 7).

## **ARTICLE IX**

### **ELECTION OF OFFICERS, COUNCIL MEMBERS, LAW STUDENT DIVISION REPRESENTATIVE, AND SECTION DELEGATES**

#### **Section 1. Election.**

Elections shall be held at the Annual Meeting of the Association. The seats of members-at-large shall be designated as legal educators, other legal professionals or public seats so as to cause the composition of the Council to comply with the provisions of Article IV, Section 3, and nominees must be qualified for the seat as so designated. Elections for positions for which there is more than one nominee shall be by written ballot, and each such position shall be voted upon separately. Election shall be by majority of the votes cast. If there are more than two candidates for a single office and no one of them receives a majority of the votes cast then there shall be a second ballot between the two candidates having the greatest number of votes on the first ballot. In the case of nominees of the Nominating Committee who are unopposed, election to fill such positions may be by voice vote.

## **Section 2. Petition.**

One or more additional nominations may be made for any designated seat on the Council, including officers of the Council (except Chairperson, Immediate Past Chairperson, and representative of the Young Lawyers Division), by petition signed by not less than 50 members of the Section in good standing, not more than 10 of whom are residents of any one state. A person so nominated shall be called the "petitioner". The petition shall specify which nominee the petitioner is challenging and shall state that the petitioner has agreed to the nomination and meets the criteria for the position being sought. The petition shall be delivered in person or by mail to the Section Office at the Association headquarters and must be received no later than June 1. The Secretary shall thereupon confirm that such individual is eligible to serve if elected.

## **Section 3. Notice.**

The Chairperson shall announce the nominees for the offices of Chairperson-Elect, Vice-Chairperson, Secretary, Section Delegate, Law Student Division representative, and members-at-large of the Council. If additional nominations are made pursuant to Article X, Section 2, the Chairperson shall distribute to the membership a final notice of nominations as soon as practical but no later than July 15.

# **ARTICLE X COMMITTEES**

## **Section 1. Standing Committees.**

The Section shall have the following standing committees:

### **(a) Accreditation Committee.**

The Accreditation Committee shall act on matters relating to the accreditation of law schools. The Accreditation Committee shall include legal educators, practitioners, members of the judiciary, and public members. No more than fifty percent of the voting members of the Committee may be persons whose current primary professional employment is as a law school dean, faculty or staff member. A person may not serve simultaneously as a member of the Accreditation Committee and as a member of the Council. Accreditation Committee members must be guided by the interest of the public and by the standards of the legal profession.

The Chairperson of the Section shall appoint the members and chairperson of the Committee. Members shall serve two-year staggered terms. The chairperson shall serve a one-year term, renewable for a second year. Members shall not serve more than three terms, except that a person serving as chairperson of the Committee may serve up to eight years on the Committee. If five or more members of the Committee would otherwise be required to leave in a single year, the Chairperson of the Section may extend for an additional year the terms of up to three members whose terms are expiring.

Public members of the Committee shall include such number of representatives of the public as to bring the Committee into compliance with applicable regulations of the United States Department of Education with respect to recognition of the Council (see Article IV, Section 3).

### **(b) Standards Review Committee.**

The Standards Review Committee shall conduct an ongoing review of the Standards for Approval of Law Schools, the Interpretations of the Standards and Rules of Procedures for Approval of Law Schools, propose

amendments and revisions thereto, solicit comments and conduct public hearings on proposed Standards, Interpretations and Rules, and make recommendations to the Council.

The Chairperson of the Section shall appoint the members and the chairperson of the Committee. Members shall serve two-year staggered terms. The chairperson shall serve a one-year term, renewable for a second year. In extraordinary circumstances, the Council may authorize a third one-year term for the chairperson of the Committee. Members shall not serve more than three terms except that a person serving as chairperson of the Committee may serve up to eight years on the Committee. The Standards Review Committee shall include legal educators, practitioners and members of the judiciary and may include public members. A person may not serve simultaneously as a member of the Council and as a member of the Standards Review Committee. The Standards Review Committee is an "accreditation-related" committee.

**(c) Governance Committee.**

The Governance Committee shall be responsible for interpretation of and compliance with these Bylaws and shall serve as the Section's grievance committee. The Council shall prescribe the duties of the Governance Committee.

The Chairperson of the Section shall appoint the members of the Governance Committee, who shall serve two-year staggered terms. The chairperson of the Governance Committee shall serve a one-year term, renewable for a second year. Members shall not serve more than three terms except that a person serving as chairperson of the Committee may serve up to eight years on the Committee.

**(d) Finance Committee.**

The Finance Committee shall have responsibility for overseeing the financial affairs of the Section, including the preparation of budgets and reporting to the Council on budget and Section financial matters. The Chairperson of the Section shall appoint its members, who shall serve two-year staggered terms. The chairperson of the Committee shall serve a one-year term, renewable for a second year. Members of the Finance Committee shall not serve more than three terms except that a person serving as chairperson of the Committee may serve up to eight years on the Committee. The development of the Section's accreditation budget is an "accreditation-related" activity.

## **Section 2. Regular Committees.**

In addition to Standing Committees, the Section may have such regular committees as created from time to time by the Council. The Chairperson of the Section shall appoint the members of the regular committees for two-year terms. Members may serve up to three terms on any regular committee. The Chairperson of the Section shall appoint the chairpersons of regular committees for one-year terms. The chairperson may serve a second term as chair of any regular committee.

## **Section 3. Special Committees.**

The Chairperson of the Section may create such special committees and task forces to serve the purposes of the Section. The term of members of a Special Committee shall be one year unless reappointed.

## **ARTICLE XI**

### **REPRESENTATION OF ASSOCIATION POSITION**

To be deemed an action by the American Bar Association, action by the Section must be approved by the House of Delegates or by the Board of Governors before the action can be effective. On request of the Council or the Section, the Chairperson or Section Delegate shall report any resolution or recommendation adopted or action taken by the Council or the members of the Section to the House of Delegates or to the Board of Governors for action by the Association. This Article shall not apply to the adoption and revision of Standards, Interpretations of the Standards and the Rules of Procedure for Approval of Law Schools or to any actions or decisions related to the Accreditation Project.

## **ARTICLE XII**

### **AMENDMENTS**

#### **Section 1. Method of Proposing an Amendment.**

The Council may propose amendments to these Bylaws. Any member of the Section may propose an amendment to these Bylaws by submitting the proposed amendment and a statement of its purposes to the Secretary, who shall transmit the proposed amendment and the statement of purposes to the Governance Committee. The Governance Committee shall report its recommendation on the proposed amendment to the Council which shall consider the recommendation at the next Council meeting held 30 or more days thereafter. By majority vote the Council shall submit to the Section at the annual meeting such proposed amendments of the Bylaws, as it deems appropriate. Notice of proposed amendments shall be given to Section members by written notice, by e-mail or other means of electronic communication and/or publication on the Section website, as the Council may direct. If any amendment proposed by a member as described above is not reported favorably by the Council of the Section, the amendment shall be submitted to the Section membership at the following annual meeting if a petition signed by 100 or more Section members requesting its submission is filed with the Secretary no later than June 1 following the unfavorable report by the Council.

#### **Section 2. Adoption of an Amendment.**

The Section may consider only those amendments to the Bylaws that are submitted to it by the procedures described in Article XII, Section 1. Such proposed amendments shall be submitted to a vote of the members of the Section present at the annual meeting of the Section and may be adopted by majority affirmative vote of the members of the Section present and voting. Amendments so adopted shall become effective upon approval of the Board of Governors.



# Statement of Ethical Practices in the Process of Law School Accreditation

## 1. Impartiality and Propriety

- (a) Those who have significant responsibility in the process leading to accreditation of law schools serve a vital function in the legal system of the United States. It is important to the fair and effective functioning of the system of law school accreditation and to the maintenance of public and professional respect for that system that those who act in it act impartially and avoid even the appearance of impropriety.
- (b) One who has significant responsibility in this system or who has had significant responsibility in this system within a period of two years past, as enumerated in paragraph (d) below, should not serve as a consultant to a law school in any matter relating to:
  - (i) initial accreditation by the American Bar Association, and
  - (ii) re-evaluation and continuation of American Bar Association accreditation.
- (c) This statement applies to service as consultant whether or not that service is for compensation. It does not apply to informal advice which an advisor renders
  - (i) without fee;
  - (ii) informally; and
  - (iii) which he or she discloses fully to the other members of the accreditation body on which he or she serves or has served; nor does it apply to the routine or official advice and assistance which is rendered by members of a site evaluation team or hearing commission, by the Consultant on Legal Education to the American Bar Association, or by persons acting on behalf of the Consultant; or
  - (iv) by a person acting in the normal course of his or her employment.
- (d) This statement applies to:
  - (i) members of the Accreditation Committee of the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association;
  - (ii) members of the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association;

- (iii) members of the Appeals Panel of the Section of Legal Education and Admissions to the Bar of the American Bar Association;
  - (iv) members of the professional staff of the Section of Legal Education and Admissions to the Bar of the American Bar Association, except as provided in subsection (c) above; and
  - (v) a member of a site evaluation team or hearing commission accepting appointment as a consultant to a law school that he or she has evaluated or conducted hearings on, within two years after the site evaluation or while the Section of Legal Education and Admissions to the Bar still has under consideration matters developed by the site evaluation, whichever is longer.
- (e) Service as a consultant for a law school does not disqualify a person from any of the offices or committees in paragraph (d). However, the officer or committee member should excuse himself or herself from participation in discussion, formal or informal, of the affairs of a school which he or she has served as consultant or employee and from taking part in any vote with respect to its status.
- (f) A person who has served as a consultant or employee of a law school within two years prior to assuming a significant responsibility in the accreditation process should decline to participate in the determination of the accreditation status of the school with which he or she previously served.
- (g) The Consultant on Legal Education to the American Bar Association shall bring this statement to the attention of persons who are nominated for or appointed to any of the positions enumerated in paragraph (d) above and to all persons who are holding these positions or who have held them within two years past, at the time the statement becomes effective.

## 2. Conflicts of Interest

- (a) It is the Council's policy to avoid any conflict of interest or perceived conflict of interest arising because a person involved in the accreditation process has an associational interest in the law school or law school program under review by the Council or the Accreditation Committee. Thus, if a member of the Council, the Appeals Panel or the Accreditation Committee is a dean or a regular faculty member of a law school under review, a former dean of a law school under review, a former faculty member of a law school under review (for a period of ten years following the termination of faculty status with that law school), or a graduate of the law school under review, she or he may not vote on the consideration of that school during her or his tenure on the Council, the Appeals Panel or the Accreditation Committee. Furthermore, a dean or faculty member of a law school under review, a former dean of a law school under review, a former regular faculty member of a law school under review (for a period of ten years following the termination of faculty status with that law school), or a graduate of a law school under review may not serve on a site evaluation team or as a fact finder visiting that law school or law school program.
- (b) In order that members of the Council, the Appeals Panel and the Accreditation Committee may avoid the appearance of a conflict of interest not considered herein, any member of the Council, Appeals Panel or Accreditation Committee may recuse himself or herself from voting on any law school or law school program without the necessity of stating a reason therefore.
- (c) For good cause stated, the dean of a law school (or law school program) under review may request that a member of a site evaluation team, or of the Council, the Appeals Panel or the Accreditation Committee, recuse himself or herself from acting in such capacity. With regard to a member of a site evaluation team, the Consultant shall grant or deny such request based on the merits of the claim. With regard to a member of the Council, the Appeals Panel or of the Accreditation Committee, the Chairperson of the

Council, the Appeals Panel or the Accreditation Committee, as the case may be, shall grant or deny such request based on the merits of such claim.

- (d) A person who acts as a chairperson of a site evaluation team or as fact finder at a law school or of a law school program under review may be present and speak at the Accreditation Committee's, Council's or Appeals Panel's deliberations concerning such law school or law school program, if so requested by the Chairperson of the Council, the Appeals Panel or the Accreditation Committee, as the case may be, or if a request therefore is received from said person and is granted by the appropriate Chairperson.

**3. Procedures for Complaints Filed Against Council Members, Appeals Panel Members, Committee Members, Consultant's Office Staff, and Site Team Evaluators Pursuant to Section 2**

- (a) Any party aggrieved may file with the Consultant a written complaint alleging noncompliance with Section 2 of this Statement by a member of the Council, the Appeals Panel, the Accreditation Committee, a staff member of the Consultant's Office, or a site team evaluator in relation to matters involved in the accreditation of that school. The complaint must be filed within one year of the complainant's learning of the facts comprising the allegation of non-compliance. Pursuit of other remedies does not toll the one calendar year limit.
- (b) Unless the complaint is asserted against the Consultant, the Consultant shall dismiss the Complaint if the Consultant determines that it does not allege a violation of Section 2 of this Statement. If the Consultant does not dismiss the complaint, the Consultant shall forward it to the Chairperson of the Grievance Committee of the Council within 45 days after receipt of the complaint. The Consultant shall simultaneously forward a copy of the complaint to the person or persons against whom the complaint is asserted.

Each of the persons against whom the complaint is asserted may respond to the complaint by mailing a written response to the Chairperson of the Grievance Committee. Said response shall be mailed to the Chairperson of the Grievance Committee within 45 days after the date on which the Consultant mailed the complaint to said person. The Grievance Committee shall meet to consider the complaint and any response or responses received. The complainant and the person or persons against whom the complaint is asserted may appear and present evidence. Thereafter the Grievance Committee shall render its decision. In the event that the Grievance Committee determines that there has been non-compliance with Section 2 of this Statement, it may also determine such relief, if any, as is appropriate to remedy the non-compliance. The decision of the Grievance Committee is final and is not subject to appeal within the Association. The Grievance Committee shall render its decision within 180 days after the Chairperson of the Grievance Committee receives the responses from all persons against whom the complaint is asserted or, if one or more responses are not received, the 45 days period for response has expired.

The Consultant shall inform the complainant and any person or persons against whom the complaint is asserted as to the Grievance Committee's action.

- (c) All matters under this section shall be confidential, except as made public by the Council. This shall include all proceedings and deliberations of the Council and the Grievance Committee and all non-public documents and information received or generated by the American Bar Association.

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**4. Participation by the Council in Various Awards by ABA Entities**

The Council will not participate either by lending its name, by co-sponsorship or by financial support to awards, competitions, seminars or meetings that are sponsored by other entities, inside or outside of the ABA, unless the Council determines that such participation will significantly advance legal education or the process of bar admission. As the agency designated by the Department of Education to determine law school accreditation, and as the agency most heavily relied on by the highest courts of the states, as well as other admitting authorities, in bar admission matters, the mission of the Section is more sharply defined than that of most other ABA entities. This must constrict activities of the Section and cause it to refrain from activities creating, or appearing to create, conflicts of interest with its duties and responsibilities or diluting its focus on its mission.

# Internal Operating Practices

## 1. Reimbursement of Section Expenses

The officers of the Section and members of the Council may receive reimbursement for attending Section sponsored conferences. Officers of the Section receive reimbursement for attending meetings of Section Committees. Persons who are not officers of the Section are not entitled to reimbursement for attending Section committee meetings unless they are a member of the committee or have been requested by the chair of the Section to attend a committee meeting.

## 2. Public Proceedings

Except as provided in Rules 6 and 26, all matters relating to the accreditation of a law school shall be confidential. This shall include proceedings and deliberations of the Accreditation Committee and Council and all non-public documents and information received or generated by the Association. Absent exceptional cause for confidentiality, all other proceedings, writings and documents of the Section of Legal Education and Admissions to the Bar shall be public, including the activities of the Council, the Consultant, and the various committees and other representatives of the Section of Legal Education and Admissions to the Bar.

## 3. Site Team Evaluators

- (a) Qualifications - The Council seeks to appoint persons who are competent and knowledgeable concerning legal education and the legal system to site evaluation teams. Each full site evaluation team normally consists of (i) a chairperson, who may be a legal educator, a legal practitioner or a judge; (ii) one or more legal academics; (iii) a person experienced with law libraries; (iv) a person experienced with law school clinics and professional skills programs; (v) a person who is a judge, legal practitioner or public representative; and (vi) to the extent feasible and only for law schools affiliated with a college or university, a person who is a university administrator, other than a law school administrator. The size and composition of smaller site evaluation teams (such as those undertaking limited site evaluation visits or fact-finding visits) shall be appropriate to the assignment given the team.
- (b) Process - the responsibility for selecting site evaluation team members rests with the Consultant for Legal Education. The Consultant should seek to develop the pool of potential evaluators in a variety of ways, including but not limited to correspondence with deans of law schools, members of the Council of the Section of Legal Education and Admissions to the Bar, members of the Section's Accreditation Committee, legal practitioners, judges, and organizations familiar with higher education. The actual

selection of persons depends on the type of school to be visited, the location of the school, the particular issues which need to be reviewed at the school, and the need for multi-level diversity in the make-up of the teams.

- (c) Evaluation - The Consultant should seek to evaluate the quality of work done by individual site evaluators. This may be accomplished by corresponding with the chair of the team and the dean of the school visited. The objective of this process should be the development of a pool of well-experienced site evaluators.
- (d) Training - The Consultant shall conduct, each year, workshops to train evaluators (particularly new or relatively new ones), and chairpersons of site evaluation teams. These workshops should cover the Standards, Interpretations and Rules of Procedure, current matters of accreditation policy, process considerations for the conduct of an on-site inspection, and the drafting of the site team report. Current instructions concerning the conduct of a site evaluation visit and the content of a site evaluation report should be supplied to each site evaluator.

#### **4. Notice of Schools and Programs to be Accredited, and Preparation of Schools for Site Evaluation Visits**

- (a) The Consultant shall publish on the Section website a list of all law schools which are scheduled to be visited during the upcoming academic year for sabbatical, provisional or full approval site evaluation visits, or a visit in connection with an application for acquiescence in a major change of organizational structure. The notice should also state that interested persons may submit written comments regarding the school by a date certain determined by the Consultant. The Consultant may also publish such information in other media or formats as deemed appropriate.
- (b) The Consultant shall conduct, each year, one or more workshops to prepare schools for undergoing site evaluation visits. Such workshops may be, but need not be, held in conjunction with the workshops for training new site evaluators. These workshops should cover the Standards, Interpretations and Rules of Procedure, current matters of accreditation policy, preparation for a site evaluation visit, the conduct of a site evaluation visit, and the expected content of a site evaluation report. Current instructions concerning the conduct of a site evaluation visit and the expected content of a site evaluation report should be provided to each school well in advance of the scheduled site evaluation visit.

#### **5. Notification of Council Decisions**

In accordance with Council policy, the Consultant shall:

- (a) Provide written notification to the Secretary of the Department of Education, the appropriate state licensing agency, and the appropriate accrediting agency, at the same time the Consultant notifies the law school in writing of any decision to deny, withdraw, suspend or remove the approval or provisional approval of the law school, or to place a law school on probation, but no later than thirty (30) days after the Council reaches the decision.
- (b) Provide written notification to the Secretary of the Department of Education, the appropriate state licensing agency, the appropriate accrediting agency, and the public, within thirty (30) days, of:
  - (i) a decision to grant provisional approval or full approval to a law school;

- (ii) a decision by an approved or provisionally approved law school to withdraw from approved or provisionally approved status; and
  - (iii) a decision by a law school to allow its approval or provisional approval to lapse.
- (c) Provide written notification to the public within twenty-four (24) hours of the time the Consultant notifies the law school in writing of any decision to deny, withdraw, suspend or remove the approval or provisional approval of the law school, or to place a law school on probation.
- (d) Make available to the Secretary of the Department of Education, the appropriate state licensing agency, the appropriate accrediting agency, and the public within sixty (60) days after final decision, a brief statement summarizing the reasons for the decision to deny, withdraw, suspend or remove the approval or provisional approval of a law school, and the comments, if any, which the affected law school may wish to make with regard to that decision or evidence that the law school was offered but declined to provide any comments.

## **6. Due Regard for Decisions of Other Accrediting Agencies**

- (a) The Council approves only those institutions that are legally authorized under applicable State law to provide a program of education beyond the secondary level.
- (b) The Council does not usually renew the approval or provisional approval of a law school or a law school program during a period in which the school or its parent institution:
- (i) is the subject of an interim action by a recognized institutional accrediting agency potentially leading to the suspension, revocation, or termination of accreditation or preaccreditation;
  - (ii) is the subject of an interim action by a State agency potentially leading to the suspension, revocation, or termination of the law school's or the parent institution's legal authority to provide postsecondary education;
  - (iii) has been notified of a threatened loss of accreditation for a law school or its parent institution, and the due process procedures required by the action have not been completed; or
  - (iv) has been notified of a threatened suspension, revocation, or termination by a State of the law school's or the parent institution's legal authority to provide postsecondary education, and the due process procedures required by the action have not been completed.
- (c) In considering whether to grant provisional approval to a law school or law school program the Council takes into account actions by:
- (i) recognized institutional accrediting agencies that have denied accreditation or preaccreditation to the law school or its parent institution; and
  - (ii) a state agency that has suspended, revoked or terminated the law school's or the parent institution's legal authority to provide postsecondary education.
- (d) If the Council decides to grant or continue approval or provisional approval to a law school or law school program notwithstanding the above sections, the Council will provide the Secretary of the Department of Education a thorough explanation, consistent with the Council's Standards and Interpretations, regarding why the previous action by a recognized institutional accrediting agency or State does not preclude the Council's grant or continuation of approval or provisional approval.

- (e) If a recognized institutional accrediting agency takes adverse action with respect to a dually-accredited law school or its parent institution or places either on public probationary status, or if a recognized programmatic accrediting agency takes an adverse action for reasons associated with the overall institution rather than the specific program against a program offered by the parent institution or places the program on public probation, the Council shall review its approval or provisional approval of the law school or law school program to determine if it should also take adverse action against the law school or the law school program.
- (f) The Council will share with other appropriate recognized accrediting agencies and State agencies information about the approved or provisionally approved status of a law school or a law school program and any adverse actions it has taken against an approved or provisionally approved law school or law school program.

## **7. Submission of Information to Secretary of Education**

The Council shall submit to the Department of Education the following information:

- (a) the Consultant's *Annual Report*;
- (b) the ABA Guide to Approved Law Schools;
- (c) the identity of any school that the Council has reason to believe is failing to meet its Title IV program responsibilities or is engaged in fraud or abuse, and the reason for the Council's concern;
- (d) any revisions to the Standards, Interpretations or Rules of Procedure that are circulated by the Council for comment (see IOP 9), any reports to the ABA House of Delegates seeking concurrence in such revisions that are adopted by the Council, and any such revisions that are finally effective;
- (e) a copy, updated annually, of the Council's listing of approved law schools;
- (f) upon request by the Secretary of Education, information regarding an approved law school's compliance with its Title IV, HEA responsibilities; and
- (g) upon request by the Secretary of Education, a summary of the Council's major accrediting activities during the previous year.

## **8. Maintenance of Records**

The Consultant shall maintain a complete set of records for a sufficient period of time to cover at least the last two reviews of a law school or a law school's programs. The records shall include site evaluation and fact finder reports, law school responses to site evaluation and fact finder reports, the law school's most recent self-study, and any other reports and responses related to the review of a law school. Periodic review reports, including the law school's completed annual questionnaire, shall be retained for a period of one accreditation review.

The Consultant shall maintain the following records indefinitely: Accreditation Committee decision letters, Council decision letters, Appeals Panel decision letters, the law school's responses to such decision letters, and all other correspondence significantly related to those decisions.



## **9. Notice of Proposed Changes to the Standards, Interpretations and Rules of Procedure**

The Council shall provide notice of proposed revisions or additions to the Standards, Interpretations and the Rules of Procedure of the Council to deans of approved law schools, chief justices, and directors of state bar admission authorities. Such notice shall be given at least fifteen (15) days prior to any scheduled hearing on the proposed revision or addition or fifteen (15) days prior to the date of the proposed action by the Council, if no hearing is scheduled on the revision or addition. Interested parties may comment on the proposed revisions or additions either at the hearing or by written comment.

## **10. Response to Department of Education Information Regarding Law School Compliance with Standards**

In the event that the Consultant should receive information from the Department of Education that raises issues about a law school's ability to comply with the Standards for the Approval of Law Schools and Interpretations, the Consultant will submit such information to the Accreditation Committee for consideration under Rule 11 of the Rules of Procedure, and for any subsequent action by the Committee as it may deem appropriate.

## **11. Review of Standards, Interpretations and Rules**

The Standards Review Committee shall engage in an ongoing review of the Standards, Interpretations and Rules. At five-year intervals, the Consultant shall provide notice as to the commencement of a process of comprehensive review for all the Standards, Interpretations and Rules, including a proposed schedule for completion of this review to take place over two to three academic years. As part of the notice, the Consultant shall invite suggestions as to possible revisions of the Standards, Interpretations and Rules. Such notice shall be provided to the deans of ABA-approved law schools, with instruction to share the notice with faculty, students and staff. Notice shall also be provided to Chief Justices, directors of state bar admission authorities, presidents of universities affiliated with ABA-approved law schools, deans of law schools that are not ABA-approved and are known to the Consultant's Office, and organizations concerned with legal education. Such notice shall be provided by publication on the Section website and through written memoranda. Proposals received by the Section for revisions to the Standards, Interpretations or Rules shall be referred to the Committee and considered in accordance with Standard 803(d).

The Committee shall submit to the Council proposed Standards, Interpretations or Rules or revisions thereto for approval and circulation for notice and comment from interested constituencies, including but not limited to, the highest appellate court of each state, the board of bar examiners of each state, presidents of universities affiliated with ABA-approved law schools, deans of ABA-approved law schools, deans of unapproved law schools known to the Consultant's Office, and organizations concerned with legal education. Proposed revisions shall also be made available to the public on the Section website and through publication in *Syllabus*. The Committee also shall hold public hearings to solicit testimony from interested constituencies, including those described above.

The Committee shall consider oral and written comments and testimony received and revise, if necessary, its recommendations to the Council regarding new Standards, Interpretations or Rules or revisions to the current Standards, Interpretations or Rules. The Council shall act on the Committee's recommendations as appropriate and shall make available to the public a written report discussing the results of the review, the rationale for the decisions that were made, an explanation for the revisions adopted, and a summary of the reasons why other comments were not adopted. A Council decision to adopt, revise, amend or repeal the Standards, Interpretations or Rules shall be reviewed by the House in accordance with Standard 803.

If, during the comprehensive review process the Standards Review Committee or the Council determines that changes need to be made to the Standards, Interpretations, or Rules, action to make those changes must be initiated within 12 months of the determination and shall be completed within a reasonable period of time.

**12. Approval of Questionnaires**

Each year the Council shall approve all of the questionnaires (including annual and site evaluation questionnaires) that schools will be required to complete.

**13. Accreditation Committee Reports to the Council**

After each of its meetings, the Accreditation Committee shall provide to the Council a written report identifying all of the decisions and recommendations that the Committee made at the meeting. The report shall be transmitted no later than three months after the conclusion of the meeting of the Committee.

**14. Publication of Composition of Site Teams**

At the end of each Association year, the Consultant shall cause to be posted on the Section website and published in the Consultant's *Annual Report* the date and place of each site evaluation (including limited site evaluations, fact-finding visits, and visits to foreign programs) that occurred during the past Association year, together with the names and institutional affiliations of each site evaluator or fact-finder.

**15. Procedures for Processing Complaints Filed Against Council Members, Committee Members, Consultant's Office Staff, Site Team Evaluators, or Entities of the Section**

- (a) Any person may file with the Consultant a written and signed complaint against a member of the Council, the Accreditation Committee, any other Section Committee, a staff member of the Consultant's Office, or a site team evaluator for failure to comply with rules, procedures or policies of the Section of Legal Education and Admissions to the Bar (including for violations of the provisions of the Statement of Ethical Practices in the Process of Law School Accreditation), or for other misconduct related to the accreditation process. Any such complaint against the Consultant may be filed with the Chairperson of the Grievance Committee of the Section, and the Chairperson of the Grievance Committee shall act in the place of the Consultant for all procedures that would otherwise involve the Consultant. The complaint must contain a statement of facts and circumstances showing with reasonable particularity the basis for the allegation of non-compliance or misconduct. The complaint must be filed within 6 months of the occurrence that is the basis for the allegation of non-compliance or misconduct. Pursuit of other remedies does not toll the 6 month limit. Under no circumstance shall this complaint procedure be a substitute for or alternative to the appeal procedures with respect to decisions affecting accreditation, in which instances the appeal procedures shall be exclusive.
- (b) The Consultant shall dismiss the complaint if the Consultant determines that the complaint does not allege facts sufficient to establish a violation of the rules, procedures or policies of the Section, or otherwise to establish misconduct related to the accreditation process. If the Consultant does not dismiss the complaint, the Consultant shall forward the complaint to the Chairperson of the Grievance Committee within 30 days after receipt of the complaint. The Consultant shall simultaneously forward a copy of the complaint to the person or persons against whom, or the Section entity against which, the complaint asserted. Such persons or entities shall hereinafter be referred to as "respondents".
- (c) Respondents shall respond to the complaint by sending a written response to the Chairperson of the Grievance Committee. Said response shall be delivered to the Chairperson of the Grievance Committee within 30 days after the date on which the Consultant sent the complaint to the respondents.

- (d) Upon review of the complaint and the response required by (c), the Grievance Committee may request that the complainant or respondents provide additional information. Complainant and/or respondents shall submit the additional information requested within 30 days after receipt of the Committee's request.
- (e) The Complainant bears the burden by a preponderance of the evidence of establishing that there has been a violation of the rules, procedures or policies of the Section, or other misconduct related to the accreditation process.
- (f) Within 45 days, after receipt of the information required in (c) and (d), the Grievance Committee shall render its decision. In the event that the Grievance Committee determines that there has been such a violation or misconduct, the Grievance Committee may also determine such relief, if any, as is appropriate to remedy the violation or misconduct. The decision of the Grievance is final and is not subject to appeal within the Association.
- (g) The Consultant shall, in writing, inform the complainants and any respondents of the Grievance Committee's decision.
- (h) All matters under this section shall be confidential, except as made public by decision of the Grievance Committee. This shall include all proceedings and deliberations of the Grievance Committee and all non-public documents and information received or generated by the American Bar Association.

#### **16. Training for Council and Accreditation Committee Members**

At the beginning of each academic year, the Consultant shall provide training for members of the Council and the Accreditation Committee concerning the Standards for Approval of Law Schools and the policies and procedures that govern the accreditation process. Additional training in the Standards, policies and procedures will be provided at the beginning of each academic year to any new members of the Council and the Accreditation Committee. All new members of the Accreditation Committee and Council are required to attend a training session.

#### **17. Soliciting Suggestions for Revisions of the Standards, Interpretations and Rules of Procedure**

At the beginning of each academic year, the Consultant shall provide notice as to any specific Standards, Interpretations or Rules of Procedure that will be considered for revision during the coming academic year and shall invite suggestions as to those possible revisions and any other revisions of the Standards, Interpretations and Rules that should be considered. Such notice shall be provided to the deans of ABA-approved law schools, with instruction to share the notice with faculty, students and staff. Notice shall also be provided to Chief Justices, directors of state bar admission authorities, presidents of universities affiliated with ABA-approved law schools, deans of law schools that are not ABA-approved and are known to the Consultant's Office, and organizations concerned with legal education. Such notice shall be provided by publication on the Section website and through written memoranda. Any suggestions for revisions of the Standards, Interpretations or Rules of Procedure will be considered in accordance with the provisions of Standard 803(d).

## **18. Grievance Committee**

There shall be six members of the Grievance Committee. The Chairperson of the Council shall appoint the members of the Grievance Committee for terms of three years. The terms of the members shall be staggered and a member may serve no more than two terms. Appointments shall be made from members of the Section; however no member of the Grievance Committee may be a current member of the Council, the Accreditation Committee or staff of the Section. The Chairperson shall appoint a Chairperson of the Grievance Committee for a term of one year, subject to one reappointment.

Complaints received pursuant to IOP 15 Grievance Procedure shall be heard by a panel of three members of the Grievance Committee. The Chairperson of the Grievance Committee shall appoint the panel, designating one member to preside. Members shall be subject to the same conflict of interest rules that apply to members of the Council.

## **19. Conflicts of Interest**

- (a) It is the Council's policy to avoid any conflict of interest or perceived conflict of interest arising because a person involved in the accreditation process has an interest in the law school or law school program under review by the Council, the Accreditation Committee or the Appeals Panel.
- (b) In order that members of the Council, members of the Accreditation Committee, members of the Appeals Panel and members of the staff of the Office of the Consultant (in each case when used in this IOP, a "Member") may avoid the appearance of a conflict of interest, any Member may recuse himself or herself from participating in any matter before the Accreditation Committee, the Council or the Appeals Panel related to a law school under review without the necessity of stating a reason for recusal.
- (c) If any of the following conditions are met, a Member is required to recuse himself or herself from participating in a matter before the Accreditation Committee, the Council or the Appeals Panel related to a law school under review:
  - 1. The Member:
    - (A) is currently the dean, a faculty member, other employee or a student of a law school under review (or its parent institution), a former dean of a law school under review, a former full-time faculty member of the law school under review (for a period of ten years following the termination of faculty status with that law school), a former employee of the law school under review other than as a full-time faculty member (for a period of two years following termination of such employment) or a graduate of the law school under review;
    - (B) is currently a member of any board of the law school or its parent institution or has been within the last two years; or
    - (C) has a current business or professional relationship (including consulting with or without compensation) with the law school (or its parent institution) or has had such a relationship within the last two years.
  - 2. The Member's spouse, child, parent, domestic partner, or sibling:
    - (A) is an employee or student of the law school under review (or its parent institution) or has been within the last two years;
    - (B) is currently a member of any board of the law school or its parent institution or has been within the last two years; or
    - (C) has a current material business or professional relationship with the law school (or its parent institution) or has had such a relationship within the last two years.

- (d) A Member of the Council shall recuse himself or herself from participating in the review of a matter before the Council involving the status of a law school in any case where the Member of the Council participated in making the decision or recommendation on such matter as a member of the Accreditation Committee. A Member of the Appeals Panel shall recuse himself or herself from participating in the review of a matter before the Appeals Panel involving an adverse action as defined in Rule 10, Section (a)(1-3) against a law school in any case where the Member of the Appeals Panel participated in making the decision on such adverse action as a member of the Council or the Accreditation Committee or served on the site team which visited the law school.
- (e) In addition to the conditions set forth in Subparts (b), (c) and (d) above, if, in a matter before the Council, the Appeals Panel or Accreditation Committee related to a law school under review, a meaningful conflict exists or could be reasonably perceived to exist in view of the Member's office or other position, previous or current relationship with the law school, or other circumstances (including geographic distance between the Member's residence or place of employment and the law school under review or circumstances involving the Member's spouse, child, parent, domestic partner, or sibling), then the Member shall disclose the relationship to the Chair of the Council, the Chair of the Appeals Panel or the Accreditation Committee, as applicable, and the relevant Chair shall determine whether the Member shall be recused from participating in the matter under consideration. For purposes of this Subpart, a relationship with a law school includes, but is not limited to, a relationship with the members of the law school's faculty, staff, students, graduates or its parent institution.
- (f) A Member who is recused with regard to a matter related to a law school under review:
- (1) may not be present in the room (nor participate in the meeting by means of telecommunications) when the law school appears before the Council, the Appeals Panel or the Committee or when the Council, the Appeals Panel or the Committee is discussing the matter related to the law school;
  - (2) shall refrain from participating in any discussions, formal or informal, with other Members regarding the matter related to the law school; and
  - (3) shall not read but instead shall destroy or delete any materials received from the Consultant or the Consultant's staff concerning the law school.
- (g) A current dean, faculty member, other employee or student of the law school under review (or its parent institution), a former dean of the law school under review, a former full-time faculty member of the law school under review (for a period of ten years following the termination of faculty status with the law school), a former employee of the law school under review other than as a full-time faculty member (for a period of two years following termination of such employment) or a graduate of the law school under review may not serve on a site evaluation team or as a fact finder visiting that law school or law school program.
- (h) For good cause stated, the dean of a law school (or law school program) under review may request that a member of a site evaluation team, or a Member of the Council, the Appeals Panel or the Accreditation Committee, recuse himself or herself from acting in such capacity with respect to the dean's law school. With regard to a member of a site evaluation team, the Consultant shall grant or deny such request based on the merits of the claim. With regard to a Member of the Council, the Appeals Panel or of the Accreditation Committee, the Chair of the Council, the Appeals Panel or the Accreditation Committee, as the case may be, shall grant or deny such request based on the merits of such claim.
- (i) A person who acts as a chair of a site evaluation team or as fact finder at a law school or of a law school program under review may be present and/or speak at the Accreditation Committee's, Council's or Appeals Panel deliberations concerning such law school or law school program, if so requested by the

Chair of the Council, the Appeals Panel or the Accreditation Committee, or such Chair's designee, as the case may be, or if the Chair grants the person's request for such participation.

## 20. Right to Representation

A law school shall have the right to representation, including legal counsel, at all stages of a determination regarding the school's removal from the list of approved law schools or the denial of the school's provisional or full approval.

## 21. Procedures for the Council's Assessment of Whether to Take a Position on Resolutions or Other Matters Presented to the ABA House of Delegates by Other Sections of the ABA or Other Groups or Individuals

The Council's role as a governing council of an ABA Section permits—and, in certain cases, may call for—the Council to take a position in the ABA House of Delegates on resolutions or other matters presented to the House by other Sections of the ABA or by other groups or individuals. In determining whether to take a position on any such matters and, if so, what position to take, the following procedures should be employed by the Council, its Chair, its Delegates to the House, and the Consultant on Legal Education:

- (1) Each year, the Chair of the Council should appoint a subcommittee, composed of at least three current members of the Council (one of whom should serve as chair), to advise the Council on whether to take a position (and, if so, what position to take) on matters pending in the ABA House of Delegates. The Council's Delegates to the House should serve as *ex officio* members of this subcommittee.
- (2) The Consultant on Legal Education should inform the above-described subcommittee, at the earliest practicable opportunity, of any matters pending in the ABA House of Delegates that are relevant to legal education or admissions to the bar.
- (3) The subcommittee should review each matter referred to it by the Consultant on Legal Education and should:
  - (a) Decide whether the Section should take a position on the matter or not. In making this judgment, the subcommittee should consider, *inter alia*, the following factors:
    - (i) Whether the subject matter is relevant to the Section's central concerns of "legal education and admissions to the bar," and, if so, how substantial an effect the matter is likely to have on legal education or bar admissions; and
    - (ii) Whether there is sufficient time for adequate and informed consideration of the matter before it is due to be heard in the House of Delegates.
  - (b) If the subcommittee concludes that the matter is one on which the Section should take a position, the subcommittee should decide further whether the matter should be referred to the Council or the Council's Executive Committee for formulation of the Section's position or should authorize the Council's Delegates to the House, in the exercise of their individual discretion, to determine the Section's position. In making the judgment of whether to refer the matter to Council, the Council's Executive Committee, or the Council's Delegates for the formulation of a position, the subcommittee should obtain the input of either or both Delegates and should consider, *inter alia*, the following factors:

- (i) Whether the matter is one on which Council members are likely to take varying positions (and, in the event that it is, the matter should be referred for consideration by the Council or the Council's Executive Committee);
  - (ii) Whether, even if the matter is unlikely to prompt a division of views on the part of Council members, discussion by the Council or the Council's Executive Committee would be useful to the Delegates in whatever actions they may take on the Council's behalf in the House of Delegates; and
  - (iii) Whether there is sufficient time for meaningful consideration of the matter by the Council before it is due to be heard in the House of Delegates.
- (c) If the subcommittee concludes that the matter is one that should be referred to the Council or the Council's Executive Committee to determine the Section's position on the matter, the subcommittee should prepare a recommendation to the Council or the Council's Executive Committee on what position the Council or the Council's Executive Committee should take on the merits. In doing so, the subcommittee should obtain the input of either or both of the Council's Delegates to the House.

## Council Statements

Periodically, the Council issues Statements intended to provide law schools with guidance on a variety of issues. These Statements are advisory in nature only. They are not and should not be considered the equivalent of Standards, Interpretations, and Rules for the Approval of Law Schools.

### 1. LL.M. and Other Post-J.D. Degrees and Qualification for Admission to Practice

The American Bar Association's approval of a law school extends only to the first professional degree in law (J.D.) offered by a law school. ABA approval of a school's J.D. program provides bar admission authorities, students and the public assurance that the law school's J.D. program meets the Standards established by the ABA and that graduates of the school have completed an educational program that prepares them for admission to the bar and to participate effectively and responsibly in the legal profession. ABA approval does not extend to any program supporting any other degree granted by the law school. Rather the content and requirements of those degrees, such as an LL.M., are created by the law school itself and do not reflect any judgment by the ABA regarding the quality of the program. Moreover, admission requirements for such programs vary from school to school, and are not evaluated through the ABA accreditation process. The ABA accreditation process does not evaluate in any way whether a school's post-J.D. degree program ensures that students in the program gain the basic knowledge and skills necessary to prepare the student adequately for the practice of law. It is the long-standing position of the Council of the Section of Legal Education and Admissions to the Bar that no graduate degree is or should be a substitute for the J.D., and that a graduate degree should not be considered the equivalent of the J.D. for bar admission purposes.

*The Standards for Approval of Law Schools* prohibit an approved law school from establishing a post-J.D. program without first obtaining the acquiescence of the Council of the Section of Legal Education and Admissions to the Bar. However, the ABA reviews post-J.D. degree programs only to determine whether the offering of such post-J.D. program would have an adverse impact on the law school's ability to comply with the Standards that the ABA establishes for J.D. programs. If no adverse impact is indicated, the ABA acquiesces in the law school's decision to offer the non-J.D. program and degree. Acquiescence in a post-J.D. program does not constitute ABA approval or endorsement of such a program.

### 2. J.D. Degree - Ph.D. Degree Equivalency

WHEREAS, the acquisition of a Doctor of Jurisprudence degree requires from 84 to 90 semester hours of post baccalaureate study and the Doctor of Philosophy degree usually requires 60 semester hours of post baccalaureate study along with the writing of a dissertation, the two degrees shall be considered as equivalent degrees for educational employment purposes; THEREFORE, BE IT RESOLVED, that all appropriate persons be requested to eliminate any policy, or practice, existing within their jurisdiction



which disparages legal education or promotes discriminatory employment practices against J.D. degree-holders who hold academic appointment in education institutions.

### **3. Propriety of Examination by Public Authority before Admission to Practice**

A half century ago the American Bar Association adopted standards for legal education, the second of which is as follows:

“The American Bar Association is of the opinion that graduation from a law school should not confer the right of admission to the bar, and that every candidate should be subject to an examination by public authority to determine his fitness.”

The criticism of bar examinations, which is daily becoming more prevalent, makes it most appropriate for the Council of the Section of Legal Education and Admissions to the Bar and the Board of Managers of the National Conference of Bar Examiners to state their opinion on the matter of the so-called Diploma Privilege.

It is the position of the Council and Board that the above-quoted standard, adopted in 1921, is as valid today — perhaps more so with the mobility of law graduates — as it was at the time and that every applicant for admission to the bar should be subject to examination by public authority.

Very great progress has taken place in the caliber of legal education in the fifty years intervening since 1921. In part the improvement in legal education has been the result of experimentation in teaching techniques. Not all such experiments have proved successful. Public authority should not dictate teaching techniques but it should make sure that all applicants have the training necessary to adequately serve the public upon their admission.

Not only are law schools quite properly experimenting in teaching techniques but they are experimenting in curriculum content. Again, public authority should not dictate curriculum content but by examination should determine that the content of the applicant's education is such that upon admission he will be able to adequately serve the public. In one of the jurisdictions where graduates of certain law schools are admitted without examination, the Court found it necessary to a certain extent to dictate the curriculum content of those schools—an unfortunate limitation on the educational freedom of these schools.

Bar examinations themselves serve additional functions. They encourage law graduates to study subjects not taken in law school. They require the applicant to review all he has learned in law school with a result that he is made to realize the interrelation of the various divisions of the law—to view the separate subject courses which he took in law school as a related whole. This the curriculum of most law schools does not achieve.

Also, it is the first time many of the applicants will have been examined by persons other than those who taught them, a valuable experience in preparation for appearing before a completely strange judge.

To reiterate, it is the position of the Council and the Board of Managers that there must be examination by public authority. This is not to say that public authority must not be very careful in its examination procedure to make sure that it is fulfilling its responsibilities. It should continually strive to make its methods of examination more effective so that the results will be the nondiscriminatory admission of none not qualified and the exclusion of none qualified, even though this requires the use of innovative examining techniques and constant consideration of the ever changing needs of our society. The necessity to train lawyers to represent all members of society is a continual challenge to teachers of law and legal education. To test this properly the examining authority can perform effectively and satisfactorily only if it makes responsive changes in its techniques.

### **4. Law Students Called to Active Military Duty**

Resolved, that any student who leaves his/her law school prior to completion of a semester, quarter or session as a result of being called to active military duty in the armed forces of the United States may be

granted by any approved law school appropriate credit for any quarter, semester or session which was interrupted by the call to active military duty. A law school may establish its own policies with respect to adequate completion of further work by the student.

## **5. Rating of Law Schools**

No rating of law schools beyond the simple statement of their accreditation status is attempted or advocated by the official organizations in legal education. Qualities that make one kind of school good for one student may not be as important to another. The American Bar Association and its Section of Legal Education and Admissions to the Bar have issued disclaimers of any law school rating system. Prospective law students should consider a variety of factors in making their choice among schools.

## **6. Law School Policy Encouraging Faculty to Engage in Reasonable Post-Examination Review with Students**

It is recommended that a law school have a policy encouraging faculty members to engage in reasonable post examination review with students, preferably individual review upon request. Absent good cause, students should also have a right reasonably to review their examination papers. This does not mean that faculty members are obligated to review examinations individually with all students in every course. A reasonable policy may take into account the workload of individual teachers, the number of examinations in the course, the academic needs of the particular students requesting review, and the availability of review in courses throughout the school. Faculty members may choose to carry out such a policy using alternative means, including engaging in individual review of examinations upon student's request, by holding a general review concerning the examination open to all students, or by providing an outline or exemplar of good examination answers.

## **7. Period of Retention of Examination Materials**

Law schools approved by the American Bar Association should practice the policy of retaining examination booklets for a period of one year. This policy applies only if the examination booklet has not been returned to the student.

## **8. Retention of Records**

Law schools approved by the American Bar Association should retain admission, financial aid and placement records for a one-year period.

## **9. Interference in Law School Clinical Activities**

Improper attempts by persons or institutions outside law schools to interfere in the ongoing activities of law school clinical programs and courses have an adverse impact on the quality of the educational mission of affected law schools and jeopardize principles of law school self-governance, academic freedom, and ethical independence under the ABA Model Rules of Professional Conduct. In appropriate ways, the Council shall assist law schools in preserving the independence of law school clinical programs and courses.

## 10. Timely Grading of Law School Examinations

Law schools should adopt and maintain policies for timely grading of law school examinations. It is urged that such policies provide for completion of the grading and notification of results to the students not later than 30 days following the last examination of the term.

## 11. Pass/Fail Grading

At its August, 1970 meeting the Council of the Section of Legal Education and Admissions to the Bar decided to endorse the following statement issued earlier by the Law School Admission Council on the impact of pass/fail grading by undergraduate colleges upon the law school admission process. This statement has also been endorsed by the Executive Committee of the Association of American Law Schools.

The adoption by an increasing number of colleges and universities of pass/fail or similar grading systems for some or all of their students' work has implications for the law school admissions process. When a student with a transcript bearing such grades seeks to enter law school, law school admissions committees will be deprived of data that have served them well in the past in making the admissions decision. In the belief that college and university faculties and administrations who are considering conversion of a conventional grading system to a pass/fail or some variant system may be interested in the possible effect of such grading systems upon their graduates who seek admission to law school, the Law School Admission Council issues this statement.

The Law School Admission Test (LSAT) was developed more than twenty years ago in response to an expressed need of law schools for additional data upon which to base their admissions decisions. Validity studies conducted over the years demonstrate that the LSAT score contributes significantly to the prediction of an applicant's grades in law school and thus aids in the making of the admissions decision. These studies show that the LSAT score and the undergraduate grade-point average are the two best quantitative predictors, and that when they are used together they are better than either used separately. College grades represent both academic competence and achievement; the LSAT score largely indicates academic competence—the kind relevant to the study of law. The academic achievement of an applicant to law school indicates the extent of his preparation and motivation for the study of law. It is apparent, then, that college grades make a significant contribution to prediction of law school grades that is not supplied by the LSAT score.

Where an applicant for admission to law school submits a transcript in which all or virtually all of his grades are on pass/fail basis, and submits no other indication of his level of achievement in college, the admissions committee can make little specific use of his college work in predicting his law school grades. This means that this prediction must be based on the LSAT score, even though the committee would much prefer not to place sole reliance on the test scores in making this prediction. Even when such a transcript is supplemented by a narrative evaluation of the applicant by several of his teachers and deans, the committee can make only limited use of the college work in predicting performance in law school. Like interviews, these evaluations give the committee some help in making the admissions judgment, but they are largely helpful in deciding which risks to take and which to reject.

Where the applicant for admission to law school submits a transcript containing some conventional grades and some pass/fail grades, the admissions committee can develop a grade-point average for that portion of the student's college work bearing the conventional grades. However, many admissions officers will not feel justified in assigning to that average the conventional weight. They may well assume that the student chose to receive a conventional grade in those courses in which he gauged his probabilities for a premium grade to be good. This indicates that his grade-point average so developed will overstate his academic competence and achievement as compared with the average of a student whose grades are all conventional. Furthermore, the committee may reasonably assume that the applicant did not make the same effort in the courses graded on a pass/fail basis as he did in those graded on the conventional basis. In short, a grade-point average based only upon the limited part of a student's work in which conventional

grades were assigned seems to overstate in a compound way the student's general academic ability and achievement. Therefore, it is understandable that many admissions officers are already discounting such a grade-point average, and discounting it more if there is a large proportion of pass/fail grades.

The Council recognizes that the increased use of the pass/fail grading system—or some variant thereof—will mean that law school admissions committees and officers will place an increased reliance upon the LSAT score, a greater reliance than either the Council or law school admissions committee would like. The Council recognizes that there are many educational considerations to be taken into account by the faculty and administration in determining the appropriate grading system for that college or university. The Council, of course, respects the authority and judgment of the college and university faculty and administration in making that decision. The Law School Admission Council offers this statement concerning the effect of pass/fail grades upon the proper evaluation of a college graduate's application for admission to law school only in the hope that it may be useful to college faculties and administrations in determining what grading system to use.

## **12. Student Complaints**

Each law school approved by the American Bar Association should communicate in written form to its students the manner in which it receives and responds to student complaints.

## **13. Law School Admission Fees**

The American Bar Association Section of Legal Education and Admissions to the Bar condemns the practice of requiring persons seeking admission to a law school to pay a fee, in addition to the regular application fee, to be placed on a list of persons who will be admitted if additional places become available, commonly known as a "waiting list."

## **14. Law School Curricula**

The Council is the governing body of the Section of Legal Education and Admissions to the Bar, and it also serves as the United States Department of Education recognized accrediting agency for J.D. programs in the United States. In its role as an accrediting authority the Council has adopted Standards and Interpretations for the Approval of Law Schools. A number of those Standards and Interpretations speak to the program of legal education that the Council believes a law school must offer to prepare its graduates for careers in the legal profession.

The Standards and Interpretations reflect the general principle that law schools should be given considerable discretion to fashion their own curricula, consistent with their varied and diverse missions. There are many more courses and subjects that might be appropriate and worthy of inclusion in a law school course of study than can be accommodated in a three year full-time course of study (or its part-time equivalent). Choosing among many worthy and important courses, subjects and topics is a matter best left to each law school within the basic framework established by the Standards and Interpretations.

It is inconsistent with the Council's role as an accrediting agency to support proposals that law schools include in their curricula matters that are not specifically required by the Standards. Moreover, a resolution adopted by the ABA House of Delegates to encourage law schools to include specific courses or subjects in their curricula will lead many to believe that such courses and subjects are related to accreditation requirements.

## Consultant's Memos

In its report to the Council in 2008, the Section's Special Committee on Transparency recommended the following:

**The Committee RECOMMENDS that, in appropriate circumstances, the Consultant's Office prepare a "Consultant's Memo" to assist schools in coming into compliance with the Standards.**

The Accreditation Committee considered this recommendation and determined that it will, in appropriate circumstances, authorize the Consultant to issue Consultant's Memos. The goal of the memos is to guide schools in their efforts to comply with the Standards and occasionally, to provide explanations about Accreditation Committee policies on issues of importance to schools.

### CONSULTANT'S MEMO 1 (REVISED) STANDARDS 503 & 802 AUGUST 2012

#### Background

The original Consultant's Memo on Standards 503 and 802 was issued in August 2009. At its August 2012 meeting, the Council of the Section of Legal Education and Admissions to the Bar approved several changes to the requirements for variances from Standard 503 granted pursuant to Standard 802. This revised Consultant's Memorandum covers these recent changes and replaces the earlier memorandum. This memorandum provides general guidance on the requirements for special admission programs that do not use the Law School Admission Test (LSAT).

#### Standard 503's Requirement of a "Valid" and "Reliable" Test

Standard 503 states in relevant part: **A law school shall require each applicant for admission as a first year J.D. student to take a valid and reliable admission test to assist the school and the applicant in assessing the applicant's capability of satisfactorily completing the school's educational program.** Additionally, Interpretation 503-1 says: *A law school that uses an admission test other than the Law School Admission Test sponsored by the Law School Admission Council shall establish that such other test is a valid and reliable test to assist the school in assessing an applicant's capability to satisfactorily complete the school's educational program.*

Interpretation 503-1 makes it clear that the burden is on the law school to demonstrate the validity and reliability of any test or assessment methodology, other than the LSAT, that is used for law school admission purposes. “Validity” and “reliability” are terms of art in the world of testing. Validity asks if the scores reflect what the test or assessment method is intended to measure. Reliability asks if repeated applications of the test or assessment method will produce substantially the same results. The LSAT has been determined to be a valid and reliable test for law school admission purposes.

### Tests Other than the LSAT and Standard 503

For law schools proposing to use a test other than the LSAT for admissions purposes, the Accreditation Committee has asked that the school provide certain information so that the Committee can determine if Standard 503 and Interpretation 503-1 are satisfied, and if not, whether a variance pursuant to Standard 802 is warranted. In each case where an admission program implicating the concerns of Standard 503 has been brought to the attention of the Committee, the school has been asked to answer the following questions:

Is the law school proposing to use a test other than the LSAT for admissions purposes; and if so, what evidence does the school have that the test is “... a valid and reliable test to assist the school in assessing the applicant’s capability to satisfactorily complete the school’s educational program”?

If Accreditation Committee determines that an admissions program that uses a test other than the LSAT does not satisfy Standard 503, will the school seek a variance of Standard 503 from the Council?

The basic issue for the Accreditation Committee to decide under Standard 503 is whether admission criteria to be employed by the special admission program are comparable to the admission criteria being applied under the standard admission program (i.e., the admission program under which most incoming J.D. students are admitted). The assessment methods used should be shown to be valid for the intended purpose (i.e., to assess “the applicant’s capability of satisfactorily completing the school’s educational program”), by demonstrating that the performance of students admitted under the special criteria is or will be, in general, about as good or better than that for students admitted under the standard criteria.

It has been the Committee’s practice to require a psychometric evaluation of the validity and reliability of the proposed admissions methodology, performed by an individual with suitable credentials, and that the individual performing the evaluation come from outside the law school community.

### Seeking a Variances from Standard 503 Pursuant to Standard 802

Once the Committee has reviewed the proposed special admission program, it will make a determination as to compliance with Standard 503 and Interpretation 503-1. If the school satisfies the requirements, that ends the inquiry and the school can operate its program within the bounds of Standard 503. If the school is not able to demonstrate compliance through the documentation and evidence it submits, it can either abandon the program or seek a variance from Standard 503 pursuant to Standard 802.

Standard 802 provides: **If the Council finds that the proposal is nevertheless consistent with the general purposes of the Standards, the Council may grant the variance, may impose conditions, and shall impose time limits it considers appropriate.** The relevant part of Standard 802 is the one relating to experimental programs. Interpretation 802-1 permits the granting of a variance for an experimental program based on all of the following:

- (1) Good reason to believe that there is a likelihood of success;
- (2) High quality experimental design;
- (3) Clear and measurable criteria for assessing the success of the experimental program;
- (4) Strong reason to believe that the benefits of the experiment will be greater than its risks; and
- (5) Adequately informed participation by students involved in the experiment.

### **Committee and Council Determinations to Date**

There are currently seven schools with special admission programs that do not rely on the LSAT for admission purposes that have received variances from Standard 503.

### **Annual Reporting on Approved Standard 503 Variances**

If a variance from Standard 503 is approved pursuant to Standard 802, the school will be required to report annually on the special admissions program. The Committee requires the following information to be reported annually by November 1:

- (a) For each entering class, provide the number of "Special Admission" students who applied for admission under the program, the number of those students granted interviews, the number of those students admitted, and the number who matriculated. Provide also the total size of the entering class (Special Admission plus Regular Admission) for each class year.
- (b) For each year of Special Admission students referred to in paragraph (a), provide, where applicable, the range, mean, median, and standard deviation of the following: ACT score, SAT score, LSAT score, GMAT score, and Undergraduate GPA. Provide the same information for enrolled students in the regular admissions program.
- (c) Provide for each year of the Special Admission Program a report on the performance (including means, medians, and standard deviations) of students admitted under the Special Admission program, with respect to first semester Law School GPA, first year Law School GPA, cumulative GPA, attrition, and when available, graduation rate, bar passage, and employment; and a comparison of such data with corresponding data for students admitted under the Law School's regular admission program.
- (d) Provide a report on the impact of the Special Admission Program on the Law School's obligation to comply with Standard 212(a), and a description of the actions undertaken by the Law School to assure compliance with Standard 212(a) in light of the implementation of the Special Admission Program.
- (e) Show the information provided to applicants to the Law School under the Special Admission Program regarding the experimental character of the admissions aspects of the Program and regarding the need for such students to take the LSAT should they wish to apply to another law school as an incoming or transfer student. Identify also all places where this information may be found by applying students.
- (f) Describe the means by which the Law School complies with Standard 509 concerning the publishing of basic consumer information regarding admissions, for students admitted to the Law School under the Special Admission Program. Indicate all places where such information can be found by applying students.
- (g) Describe the benefits of each specific component or requirement of the Special Admissions Program to the Law School and to the students who are admitted and enroll in the Program. Note

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any potential risks associated with the experimental character of the Program for the Law School or for the students who enroll.

**Other Requirements of Standard 503 Variances**

The Council has approved Standard 503 variances for five-year terms. It is anticipated that at the end of the five years, the special admission program will either be approved as meeting the requirements of Standard 503 or be discontinued.

A special admission program may not prohibit the taking of the LSAT as a condition of admission. Where a student is admitted under a special admission program that does not use the LSAT, but the student has taken the LSAT, the student's LSAT score must be included in the school's reporting of entering class credentials (unless the student took the LSAT under non-standard test conditions).

**Summary**

The Accreditation Committee urges any school that is considering implementing a special admission program not requiring the use of the LSAT to consider the analysis above, to give notice to the Consultant's Office, and to be prepared to address all the issues identified and provide the documentation and evidence outlined above.



**CONSULTANT'S MEMO 2**  
**H1N1 FLU AND STANDARD 304**  
**SEPTEMBER, 2009**

The Consultant's Office is monitoring the H1N1 flu situation and will be developing policies and processes for schools to follow as quickly as necessary. For now, I am providing a link ( <http://www.cdc.gov/h1n1flu/schools/> ) to the guidance provided by the CDC for institutions of higher education and encourage you to consult and follow the guidance to the extent it applies to your school. In the CDC materials, there is advice about educating individual students who miss substantial time as well as what to do in case of a school closure. We do not endorse any particular approach, but you should be aware of this guidance. In addition, Associate Dean Aric Short of Texas Wesleyan has created a "wiki" which aggregates school materials on the subject and provides a platform for possible collaborative drafting. You can access the wiki by going to <http://lawdeansflu.wetpaint.com>.

At this stage, I can say the following:

1. If a student misses classes, but the school does not close, that situation should be covered by your current policies and procedures. The ABA Standards most likely will not be implicated in such a situation.
2. If the school closes (either by university mandate, government requirement or board decision), the Standards could be implicated depending on the length of closure [see Standards 304(a) and (b)]. It is hoped that the school will be able to make up the lost class time in the weeks or months remaining in the semester or academic year. If this is impossible (lack of time remaining, other intervening factors, etc.), then we anticipate implementing an "emergency variance" procedure pursuant to Standard 802. This was done after Hurricane Katrina and worked well for the schools affected. The school affected would submit a variance request to the Consultant's Office and be asked to provide all relevant information. The variance request would be processed as quickly as feasible and appropriate. The Consultant's Office will be working over the next several weeks on a template for that submission, specifically delineating the kinds of information the school would be expected to provide. I can imagine that at a minimum the Accreditation Committee and Council would want to know the reasons for the closure, the reason why the classes cannot be made up and the steps the school has taken to ensure the delivery of the full course content for the semester. We will be in further communication once these procedures are put into place.

Our goal is similar to yours: to avoid disruption to the extent possible while respecting the health concerns of students, faculty, staff and the institution. The primary objective will be to get the educational program delivered to all students in a safe and secure environment, and at the same time, to make certain the Standards are followed.

I encourage you to contact the Consultant's Office as soon as it is evident to you that disruption to the school calendar will likely occur.

**CONSULTANT'S MEMO 3 (REVISED)**  
**STANDARD 302(a)(4), STANDARD 304, STANDARD 504, STANDARD 509**  
**AUGUST 2013**

This memo addresses four rather technical Standards about which the Accreditation Committee believes law schools can benefit from guidance regarding compliance. The goal is to explain the requirements and the nuances and give examples of what will comply and what will not.

1. Standard 302(a)(4) - Other Professional Skills
2. Standard 304 - Course of Study and Academic Calendar
3. Standard 504 - Character and Fitness
4. Standard 509- Basic Consumer Information

## 1. Standard 302(a)(4) – Other Professional Skills

(a) A law school shall require that each student receive substantial instruction in:

(4) other professional skills generally regarded as necessary for effective and responsible participation in the legal profession; and

**Interpretation 302-2** *Each law school is encouraged to be creative in developing programs of instruction in professional skills related to the various responsibilities which lawyers are called upon to meet, using the strengths and resources available to the school. Trial and appellate advocacy, alternative methods of dispute resolution, counseling, interviewing, negotiating, problem solving, factual investigation, organization and management of legal work, and drafting are among the areas of instruction in professional skills that fulfill Standard 302 (a)(4).*

**Interpretation 302-3** *A school may satisfy the requirement for substantial instruction in professional skills in various ways, including, for example, requiring students to take one or more courses having substantial professional skills components. To be “substantial,” instruction in professional skills must engage each student in skills performances that are assessed by the instructor.*

**GUIDANCE:** Standard 302(a)(4) has several components that must be met:

- 1) Every student must be *required* to receive substantial instruction in other professional skills generally regarded as necessary for effective and responsible participation in the legal profession. Thus, the fact that 98% of the student body takes a skills course is not sufficient; *every* student, as a requirement of graduation, must receive substantial skills instruction.
- 2) What is “*substantial instruction*” in other professional skills? Interpretation 302-3 includes a helpful explanation here: to be “substantial,” instruction in (other) professional skills must engage *each* student in skills *performances* that are *assessed* by the instructor. Thus, merely reading about and taking an exam on counseling and negotiation will not suffice; engaging in counseling and negotiation sessions by each student that are then assessed by the professor may. At least one solid credit (or the equivalent) of skills training is necessary. This can be accomplished through a class devoted specifically to skills (e.g., trial advocacy, advanced legal research, live client clinic) or a substantive course that includes substantial skills instruction (e.g., a corporations class where each student is required to draft substantial legal documents that are assessed by the instructor). Note that merely adding a few sessions (i.e., less than the equivalent of one or more credit hours) to what is otherwise a non-skills course is not sufficient.
- 3) No “*double dipping*,” e.g., a seminar paper used to satisfy the upper-class writing requirement [see 302(a)(3)] cannot also be used to satisfy the other professional skills requirement of 302(a) (4). The Accreditation Committee has interpreted “other” professional skills to mean in addition to the skills requirements set out in Standard 302(a). Thus, the typical first-year research and writing program will not satisfy 302(a)(4); however, the typical first-year research and writing program, with the addition of a substantial counseling and negotiation module, *may* satisfy 302(a)(4) through the additional module.

- 4) Schools have flexibility in determining what skills instruction to provide and are encouraged to be creative in developing programs of instruction in professional skills. (See Interpretation 302-2 for some examples.) What is required are skills that are generally regarded as necessary for effective participation in the profession, that can be “performed” by students and “assessed” by the instructor; so the options for schools are reasonably broad. Note that any one of the skills listed in 302-2 would suffice (assuming no double dipping). Interpretation 302-2 does *not* require instruction in each of the skills listed.
- 5) Schools have adopted a variety of formats to require substantial skills instruction, including: (1) a “cafeteria” plan—a list of courses that meet the skills requirement of 302(a)(4) and require each student to take at least one of the courses; or (2) requiring each student to take a specific skills course (or courses). To make certain students are on notice, schools should consider adding this to the posted list of graduation requirements.

## **2. Standard 304. COURSE OF STUDY AND ACADEMIC CALENDAR**

- (d) A law school shall require regular and punctual class attendance.
- (e) A law school shall not permit a student to be enrolled at any time in coursework that, if successfully completed, would exceed 20 percent of the total coursework required by that school for graduation (or a proportionate number for schools on other academic schedules, such as a quarter system).
- (f) A student may not be employed more than 20 hours per week in any week in which the student is enrolled in more than twelve class hours.

### ***Interpretation 304-6***

*A law school shall demonstrate that it has adopted and enforces policies insuring that individual students satisfy the requirements of this Standard, including the implementation of policies relating to class scheduling, attendance, and limitation on employment.*

**GUIDANCE:** There are three distinct areas covered in Standard 304 — class attendance, credit hour enrollment limitations and limitations on student employment — that schools sometimes fail to address sufficiently and therefore may fall short of compliance with the Standard. Note that with each of these items, the School must demonstrate that it has *adopted* policies AND must provide evidence of their *enforcement*. (Interpretation 304-6.)

**Standard 304(d).** Schools establish minimum attendance requirements and generally publish them in the student academic handbook or similar publication. Enforcement of regular and punctual class attendance can be accomplished in a variety of ways such as sign-in sheets or seating charts (which the professor checks) or leaving it up to individual faculty to establish enforcement rules as long as these rules are communicated to students in the class *and* the rules are not inconsistent with the requirement of regular and punctual attendance. The burden is on the school to provide an attendance policy *and* demonstrate enforcement by some appropriate means. Site teams are instructed to report on both the school’s attendance policies and how they are enforced.

**Standard 304(e)** is sometimes referred to as the “20 percent rule.” Basically, what this Standard requires is that in any semester a student cannot enroll in coursework that, if successfully completed, would exceed 20 percent of the total coursework required for graduation. Thus, if a school required 85 hours of course credit for graduation, a student could not enroll in more than 17 course hours (20%) in any semester. As with attendance, the burden is on the school to demonstrate that it properly enforces the 20 percent rule.

**IMPORTANT NOTE:** The Accreditation Committee has interpreted this as a strict limit; thus if a school required 88 course hours for graduation, 20 percent is 17.6 hours *not* 18 hours. In other words, “rounding up” is not permitted so, functionally, the limit in this example would be 17 credit hours per semester. Also, some schools have policies that meet the Standard. (e.g., “Students cannot enroll in more than 20 percent of the course hours needed for graduation. . .”) but then include a statement such as “. . . except as authorized by the associate dean.” This exception, even under extraordinary circumstances, is treated by the Accreditation Committee as a violation of Standard 304(e).

**Standard 304(f)** limits student employment to no more than 20 hours per week for full-time students. Schools must demonstrate that they have adopted policies and enforcement mechanisms to limit employment as required by the Standard. Schools frequently accomplish this by asking full-time students to sign a statement (often as part of the registration process) attesting that they will not work more than 20 hours per week and by scheduling classes throughout the day, Monday through Friday. (Note that this requirement applies to full-time students only.)

### 3. Standard 504. CHARACTER AND FITNESS

**(a) A law school shall advise each applicant that there are character, fitness and other qualifications for admission to the bar and encourage the applicant, prior to matriculation, to determine what those requirements are in the state(s) in which the applicant intends to practice. The law school should, as soon after matriculation as is practicable, take additional steps to apprise entering students of the importance of determining the applicable character, fitness and other qualifications.**

#### GUIDANCE

Standard 504 requires that law schools advise each *applicant* that there are character and fitness qualifications for admission to the bar. There are five key components of the notice requirement: 1) whom the schools must notify; 2) the timing of the notification; 3) the nature and content of the notification; 4) method of notification; and 5) clarification that it is the applicant’s duty to determine the character and fitness requirements of the jurisdictions in which they may seek a law license.

The first component concerns whom the schools must notify. Since the Standard requires notifying each *applicant*, notifying only admitted students or each matriculant is *not* sufficient.

The second component addresses timing. Schools must encourage every applicant, *prior to matriculation*, to determine the fitness requirements in the jurisdiction(s) in which the applicant intends to practice. Waiting until applicants have already completed several law school courses to first advise of character and fitness requirements is not useful in that applicants must be fully aware of these requirements before they invest the time and financial resources necessary to begin their law school studies.

The third component concerns the nature and content of the notice. The notice by its nature must give applicants a clear understanding that character and fitness reporting requires truthful, accurate, and complete disclosure of all requested information related to past conduct that may be relevant to one’s fitness to practice law. It should be noted, however, that while bar admission boards require a complete disclosure of requested information, in many instances relevant conduct, particularly if

isolated and/or not recent, has not resulted in denial or delay of admission to the bar in a particular jurisdiction of interest. A failure to truthfully, accurately and completely respond to a character and fitness inquiry, however, is commonly deemed a character and fitness violation in and of itself, and may be more detrimental to bar admission prospects than the undisclosed or incorrectly disclosed underlying conduct. As the National Conference of Bar Examiners has cautioned:

Application forms can be lengthy. Be sure to allow sufficient time well in advance of filing deadlines to complete the application and gather accompanying materials. The application must be filled out completely, as failure to provide information may delay the process and require more time and effort at an inopportune time. *Answer all questions honestly, as failure to do so may result in sanctions. Failure to disclose information often yields a more serious outcome than the matter itself would have produced had it been revealed by the applicant.* (Emphasis added.)

National Conference of Bar Examiners, website, Nov 8, 2012, Character and Fitness Services, [FAQ page](#).

The content portion of this component is critical. Although Standard 504 does not mandate specific language to be used by law schools in providing required notice to applicants, this memorandum suggests “Safe Harbor” language below. As that suggested language reflects, the content component of Standard 504 does require that law schools provide notice of categories of information that jurisdictions commonly consider when reviewing a character and fitness application, such as criminal and litigation histories, educational discipline, substance abuse, debt management, and any acts of fraud, dishonesty or lack of candor. This list is not meant to be exhaustive, but does reflect many of the general areas of interest to bar examiners when a law student or graduate submits to a character and fitness review.

The fourth component is how that communication is made. This component should include, at minimum, prominent posting of the required notice on the law school’s website, and communication of the notice, with an appropriate webpage link, by a medium ordinarily used by the school, whether email or postal mail, for important and essential communications to applicants.

The fifth component of Standard 504 notice focuses on the fact that it is the applicant’s obligation to determine applicable character and fitness requirements in that jurisdiction or jurisdictions in which they may seek a law license. This component is important for several reasons. Notably, every American jurisdiction has specific character and fitness requirements. While some apply across the board, each jurisdiction is somewhat different, and it would be an unreasonable burden for the law schools to research, interpret and then explain the distinctions to applicants. Therefore, while a primary purpose of Standard 504 is to protect the applicant’s interest in bar admission process information, it also serves the important purpose of clarifying that it is the applicant’s responsibility to determine the unique character and fitness requirements of the jurisdictions in which they may seek a law license.

The following suggested “Safe Harbor” notice language shall be deemed sufficient to meet the requirements of the first sentence of Standard 504(a), relating to notice to law school applicants. While other forms of notice also may be sufficient to satisfy the standards, the following will comply with the spirit, intent and requirements of the first sentence of Standard 504(a):

Every American jurisdiction in which you may practice law after graduation from law school requires each applicant for admission to the bar to meet character and fitness requirements as a condition of eligibility for admission. A character and

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fitness review will require truthful, accurate and complete reporting of all requested information related to past conduct that bar examiners may deem relevant to one's fitness to practice law, in most jurisdictions including (but not limited to) all criminal arrests, charges, plea agreements, convictions, or instances of being taken into custody, as a juvenile or adult; all traffic violations except minor parking citations; involvement as a party to civil litigation; acts of fraud, dishonesty or lack of candor; educational discipline or misconduct; failure to pay financial obligations; and substance abuse. Many jurisdictions require disclosure of all criminal arrests, charges, plea agreements or convictions, as a juvenile or adult, even where the record has been expunged.

It should be noted, however, that while bar admission boards require a complete disclosure of requested information, in many instances past relevant conduct, particularly if isolated and/or not recent, has not resulted in denial or delay of admission to the bar in a particular jurisdiction of interest. (This is not to suggest or predict how any jurisdiction's bar admissions board would respond to any applicant's particular conduct disclosures going forward.)

A failure to truthfully, accurately and completely respond to a character and fitness inquiry, however, is commonly deemed a character and fitness violation in and of itself, and may be more detrimental to bar admission prospects than the undisclosed or incorrectly disclosed underlying conduct.

You are encouraged, as you go through the law school application process and before you enter law school, to determine the character and fitness requirements of the jurisdiction(s) where you intend to practice law. If you are uncertain where you will practice law, you may wish to review the *Standard NCBE Character and Fitness Application*, titled Request for Preparation of a Character Report, of the National Conference of Bar Examiners, which is used by a number of jurisdictions' bar admission authorities. Addresses for all relevant agencies are available at [www.ncbex.org](http://www.ncbex.org).

Law schools have done a variety of things to address the second sentence of Standard 504(a) (relating to notice to new matriculants), including having a judge, bar admissions professional, or volunteer talk to 1L students. Those programs are helpful in a variety of ways and should be continued. For purposes of compliance with the requirements of the second sentence of Standard 504(a), a notice to law students is sufficient when provided in the following form:

Every American jurisdiction in which you may practice law after graduation from law school requires each applicant for admission to the bar to meet character and fitness requirements as a condition of eligibility for admission. A character and fitness review will require truthful, accurate and complete reporting of all requested information related to past conduct that bar examiners may deem relevant to one's fitness to practice law, in most jurisdictions including (but not limited to) all criminal arrests, charges, plea agreements, convictions, or instances of being taken into custody, as a juvenile or adult; all traffic violations except minor parking citations; involvement as a party to civil litigation; acts of fraud, dishonesty or lack of candor; educational discipline or misconduct; failure to pay financial obligations; and substance abuse. Many jurisdictions require disclosure of all criminal arrests, charges, plea agreements or convictions, as a juvenile or adult, even where the record has been expunged.

It should be noted, however, that while bar admission boards require a complete disclosure of requested information, in many instances past relevant conduct, particularly if isolated and/or not recent, has not resulted in denial or delay of admission to the bar in a particular jurisdiction of interest. (This is not to suggest or predict how any jurisdiction's bar admissions board would respond to any applicant's particular conduct disclosures going forward.)

A failure to truthfully, accurately and completely respond to a character and fitness inquiry, however, is commonly deemed a character and fitness violation in and of itself, and may be more detrimental to bar admission prospects than the undisclosed or incorrectly disclosed underlying conduct.

You are encouraged to determine the character and fitness requirements of the jurisdiction(s) where you intend to practice law. If you are uncertain where you will practice law, you may wish to review the *Standard NCBE Character and Fitness Application*, titled Request for Preparation of a Character Report, of the National Conference of Bar Examiners, which is used by a number of jurisdictions' bar admission authorities. Addresses for all relevant agencies are available at [www.ncbex.org](http://www.ncbex.org).

#### 4. Standard 509. REQUIRED DISCLOSURES

(a) All information that a law school reports, publicizes or distributes shall be complete, accurate and not misleading to a reasonable law school student or applicant. Schools shall use due diligence in obtaining and verifying such information. Violations of these obligations may result in sanctions under Rule 16 of the Rules of Procedure for Approval of Law Schools.

**GUIDANCE:** Schools are advised to check their websites and other areas where they list course offerings on a regular basis and remove listed courses that are not to be offered in the current year and have not been offered in the previous two academic year. Site teams are to report on the number of courses listed by the school and indicate how many of those (if any) are not being offered in the current year and have not been offered in either of the previous two years.

## APPENDIX 1:

# Statement on Academic Freedom and Tenure\*

The purpose of this statement is to promote public understanding and support of academic freedom and tenure and agreement upon procedures to assure them in colleges and universities. Institutions of higher education are conducted for the common good and not to further the interest of either the individual teacher or the institution as a whole. The common good depends upon the free search for truth and its free exposition.

Academic freedom is essential to these purposes and applies to both teaching and research. Freedom in research is fundamental to the advancement of truth. Academic freedom in its teaching aspect is fundamental for the protection of the rights of the teacher in teaching and of the student to freedom in learning. It carries with it duties correlative with rights.

Tenure is a means to certain ends; specifically: (1) freedom of teaching and research and of extramural activities, and (2) a sufficient degree of economic security to make the profession attractive to men and women of ability. Freedom and economic security, hence, tenure, are indispensable to the success of an institution in fulfilling its obligations to its students and to society.

### Academic Freedom

1. Teachers<sup>1</sup> are entitled to full freedom in research and in the publication of the results, subject to the adequate performance of their other academic duties; but research for pecuniary return should be based upon an understanding with the authorities of the institution.
2. Teachers are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject. Limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of the appointment.
3. College or university teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as a citizen, they should be free from institutional

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\* The text of the statement follows the "1940 Statement of Principles on Academic Freedom and Tenure" of the American Association of University Professors.

1. The word *teacher* as used in this document is understood to include the investigator who is attached to an academic institution without teaching duties.



ensorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence, they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution.

### **Academic Tenure**

After the expiration of a probationary period, teachers or investigators should have permanent or continuous tenure, and their service should be terminated only for adequate cause, except in the case of retirement for age, or under extraordinary circumstances because of financial exigencies.

In the interpretation of this principle it is understood that the following represents acceptable academic practice:

1. The precise terms and conditions of every appointment should be stated in writing and be in the possession of both institution and teacher before the appointment is consummated.
2. Beginning with appointment to the rank of full-time instructor or a higher rank, the probationary period should not exceed seven years, including within this period full-time service in all institutions of higher education; but subject to the proviso that when, after a term of probationary service of more than three years in one or more institutions, a teacher is called to another institution, it may be agreed in writing that the new appointment is for a probationary period of not more than four years, even though thereby the person's total probationary period in the academic profession is extended beyond the normal maximum of seven years. Notice should be given at least one year prior to the expiration of the probationary period if the teacher is not to be continued in service after the expiration of that period.
3. During the probationary period a teacher should have the academic freedom that all other members of the faculty have.
4. Termination for cause of a continuous appointment, or the dismissal for cause of a teacher previous to the expiration of a term appointment, should, if possible, be considered by both a faculty committee and the governing board of the institution. In all cases where the facts are in dispute, the accused teacher should be informed before the hearing in writing of the charges and should have the opportunity to be heard in his or her own defense by all bodies that pass judgment upon the case. The teacher should be permitted to be accompanied by an adviser of his or her own choosing who may act as counsel. There should be a full stenographic record of the hearing available to the parties concerned. In the hearing of charges of incompetence the testimony should include that of teachers and other scholars, either from the teacher's own or from other institutions. Teachers on continuous appointment who are dismissed for reasons not involving moral turpitude should receive their salaries for at least a year from the date of notification of dismissal whether or not they are continued in their duties at the institution.
5. Termination of a continuous appointment because of financial exigency should be demonstrably bona fide.

## APPENDIX 2:

# LSAC Cautionary Policies Concerning LSAT Scores

These Cautionary Policies are intended for those who set policy and criteria for law school admission, interpret LSAT scores and Credential Assembly Service Law School Reports, and use other LSAC services. The Policies are intended to inform the use of these services by law schools, and to promote wise and equitable treatment of all applicants through their proper use.

### **I. The Law School Admission Test**

Because LSATs are administered under controlled conditions and each test form requires the same or equivalent tasks of everyone, LSAT scores provide a standard measure of an applicant's proficiency in the well-defined set of skills included in the test. Comparison of a law school's applicants both with other applicants to the same school and with all applicants who have LSAT scores thus becomes feasible. However, while LSAT scores serve a useful purpose in the admission process, they do not measure, nor are they intended to measure, all the elements important to success at individual institutions. LSAT scores must be examined in relation to the total range of information available about a prospective law student. It is in this context that the following restraints on LSAT score use are urged:

#### **Do not use the LSAT score as a sole criterion for admission.**

The LSAT should be used as only one of several criteria for evaluation and should not be given undue weight solely because its use is convenient. Those who set admission policies and criteria should always keep in mind the fact that the LSAT does not measure every discipline-related skill necessary for academic work, nor does it measure other factors important to academic success.

#### **Evaluate the predictive utility of the LSAT at your school.**

In order to assist in assuring that there is a demonstrated relationship between quantitative data used in the selection process and actual performance in your law school, such data should be evaluated regularly so that your school can use LSAT scores and other information more effectively. For this purpose, the Law School Admission Council annually offers to conduct correlation studies for member schools at no charge. Only by checking the relationship between LSAT scores, undergraduate grade-point average, and law school grades

will schools be fully informed about how admission data, including test scores, can be used most effectively by that school.

**Do not use LSAT scores without an understanding of the limitations of such tests.**

Admission officers and members of admission committees should be knowledgeable about tests and test data and should recognize test limitations. Such limitations are set forth in the *Law School Admission Reference Manual* and are regularly discussed at workshops and conferences sponsored by the Law School Admission Council.

**Avoid improper use of cut-off scores.**

Cut-off LSAT scores (those below which no applicants will be considered) are strongly discouraged. Such boundaries should be used only if the choice of a particular cut-off is based on a carefully considered and formulated rationale that is supported by empirical data, for example, one based on clear evidence that those scoring below the cut-off have substantial difficulty doing satisfactory law school work. Note that the establishment of a cut-off score should include consideration of the standard error of measurement in order to minimize distinctions based on score differences not sufficiently substantial to be reliable. Significantly, cut-off scores may have a greater adverse impact upon applicants from minority groups than upon the general applicant population. Normally, an applicant's LSAT score should be combined with the undergraduate grade-point average before any determination is made of the applicant's probability of success in law school.

**Do not place excessive significance on score differences.**

Scores should be viewed as approximate indicators rather than exact measures of an applicant's abilities. Distinctions on the basis of LSAT scores should be made among applicants only when those score differences are reliable.

**Carefully evaluate LSAT scores earned under accommodated or nonstandard conditions.**

LSAC has no data to demonstrate that scores earned under accommodated conditions have the same meaning as scores earned under standard conditions. Because the LSAT has not been validated in its various accommodated forms, accommodated tests are identified as nonstandard and an individual's scores from accommodated tests are not averaged with scores from tests taken under standard conditions. The fact that accommodations were granted for the LSAT should not be dispositive evidence that accommodations should be granted once a test taker becomes a student. The accommodations needed for a one-day, multiple choice test may be different from those needed for law school coursework and examinations.

**Avoid encouraging use of the LSAT for other than admission functions.**

The LSAT was designed to serve admission functions only. It has not been validated for any other purpose. LSAT performance is subject to misunderstanding and misuse in other contexts, as in the making of an employment decision about an individual who has completed most or all law school work. These considerations suggest that LSAT scores should not be included on a law school transcript, nor routinely supplied to inquiring employers. Without the student's specific authorization, the Buckley Amendment would preclude the latter, in any event.

## APPENDIX 3:

# Guidance on Interpretation 301-6

In determining compliance with Interpretation 301-6(A)(2) [first-time bar passage] schools should collect the data necessary to complete the charts below. These data are required to be submitted for the most recently completed calendar year in the school's Annual Questionnaire and for the five most recently completed calendar years for schools undergoing a site visit and completing a Site Evaluation Questionnaire.

**Table 1**

**First-Time Bar Passage – Back-up Data**

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>
Calendar Year	Total Graduates in Calendar Year	Number of Graduates from Calendar Year NOT Taking Bar Exam	Graduates from Previous Years Taking Bar for FIRST Time in Calendar Year	Total First Time Takers Calendar Year (B minus C plus D)	70% of Total First Time Takers
2008					
2009					
2010					
2011					
2012					

**C** = e.g., August or December graduates who were unable to take the bar in their graduation year and May graduates who elected not to sit in their year of graduation.

**D** = e.g., Graduates from the previous year who sat for the bar for the FIRST time in the calendar year.

**E** = Subtract C (non-takers) from B (graduates in calendar year) and add D (first-time takers from previous years). (B minus C plus D = E)

**F** = Multiply E (total FIRST time takers in calendar year) x 70% = F (70% is the minimum number of first-time takers the school must report on for each calendar year.)

The school must account for a *minimum* of 70% of first-time takers in *each* of the five most recently completed calendar years. It does this by starting with the jurisdiction in which the largest number of its graduates sit for the bar for the *first* time and proceeding in descending order of frequency until a *minimum* of 70% of first-time takers in *each* calendar year is accounted for.

Table 2

## First-Time Bar Passage Reporting

A	B	C	D	E	F	G
Calendar Year	Graduates Taking Bar FIRST Time in Calendar Year*	Percentage of School's FIRST Time Takers Reported for Calendar Year**	List Jurisdictions Reported	ABA First Time Weighted Average Pass Rate for Calendar Year	School's Weighted Average Pass Rate for Calendar Year	Difference in Weighted Averages (School minus ABA)
2008						
2009						
2010						
2011						
2012						

\* From Column E, Table 1

\*\* Must be at least 70% of Column B, Table 2

### Ultimate Bar Passage

The following two charts are for reporting *ultimate* bar pass rate under I 301-6 A.1(a) and (b), and *not* for first-time data collected under 301-6 A.(2). While all schools must report first-time bar pass data, schools may demonstrate compliance with 301-6 using either ultimate or first-time data.

**Table 3**

**Ultimate Bar Passage – Back-up Data**

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>
Graduation Year	Number of Students in Graduation Year	Number of Non-Persisters*	Number Never Attempting a Bar Examination	Net Bar Exam Takers (B minus C and D = E)	70% of Net Takers
2008					
2009					
2010					
2011					
2012					
Total					

- A non-persister is a graduate who took a bar examination once and failed but did not take a bar examination again in *any* jurisdiction over the next two examination opportunities.

**Table 4**  
**Ultimate Bar Passage Reporting**

A	B	C	D
Graduation Year	Number in Calculation for Graduation Year*	Passed Some Bar Examination	Never Passed a Bar Examination or Missing Information
2008			
2009			
2010			
2011			
2012			
5-Year Total		# (%)	# (%)

\* See column F above in Table 3. Must equal or exceed column F in Table 3 for *each* graduation year.

### **The Application of Interpretation 301-6 for Provisional Schools Seeking Full Approval**

*(From the Commentary approved by the Council of the Section of Legal Education and Admissions to the Bar, February 2008.)*

The application of Interpretation 301-6 to provisionally approved schools seeking full approval tracks that of fully-approved schools: the cohort size (70 percent) is the same, the first-time pass rate (not more than 15 points below . . .) is the same, and the ultimate pass rate (at least 75 percent . . .) is the same. The one area where there is some difference in application is with respect to the time periods covered when a provisional school applies for full approval. Thus, when a provisionally approved school applies for full approval, the application of 301-6 necessarily takes into account the fewer number of bar exam sittings these schools have in order to demonstrate full compliance with the bar passage portion of Standard 301(a).

Interpretation 301-6 sets out three different ways for a school to demonstrate compliance with the bar passage portion of Standard 301(a). In applying for full approval, a provisionally approved school may demonstrate compliance under *any* of the three tests. As applied to provisionally approved schools seeking full approval, the three tests would work as follows:

- 1) That for students who graduated from the law school *since provisional approval was received*, at least 75 percent of these graduates who sat for a bar examination have passed a bar examination prior to the time in which the school is considered by the Council for full approval. (301-6(A)(1)(a)).

OR

- 2) That in each of at least *two* calendar years since the school received provisional approval, at least 75 percent of the graduates who took a bar examination in those same years have passed a bar examination prior to the time in which the school is considered by the Council for full approval. (301-6(A)(1)(b)).

In demonstrating compliance under either of the above requirements, the school must report bar passage results from as many jurisdictions as necessary to account for at least 70% of its graduates each year, starting with the jurisdiction in which the highest number of graduates took the bar exam and proceeding in descending order of frequency. Non-persisters (i.e., those who took a bar examination once and failed but did not take the bar examination again in *any* jurisdiction over the next two examination opportunities) must be identified as such but are not factored in when determining compliance under either of the two tests above.

OR


- 3) In each of at least *two* calendar years since the school received provisional approval, the school's annual *first-time* bar passage rate in the jurisdictions reported by the school is no more than 15 points below the average first-time bar passage rates for graduates of ABA-approved law schools taking the bar examination in these same jurisdictions. (301-6(A)(2)).

To demonstrate compliance under this test, the school must report first-time bar passage data from as many jurisdictions as necessary to account for at least 70 percent of its graduates each year, starting with the jurisdiction in which the highest number of graduates took the bar exam and proceeding in descending order of frequency. When more than one jurisdiction is reported, the weighted average of the results in each of the reported jurisdictions shall be used to determine compliance. (The application of weighted average is discussed elsewhere in the Commentary.)

Under all of the above tests, only those who graduated *after* the school received provisional approval are counted. Thus, if a school received provisional approval in February 2008, only those who graduated and took a bar exam after that date would be tracked and reported by the school. In determining "calendar" years, if the first opportunity for a school's graduates to take the bar from a provisionally approved school is in July, then that would count as the first calendar year. Subsequent calendar years would, of course, include the entire January – December period. Note that schools that receive full approval undergo a site visit three years after this approval and at that point they must meet the five-year look-back as set out in 301-6.



This is Exhibit "D" to the Affidavit of Cheryl McKinnon  
Sworn Before Me in the City of Toronto, Province of Ontario  
This 28<sup>th</sup> day of May, 2014



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A Commissioner for oaths, etc.

## MEDIA FACT SHEET: TRINITY WESTERN UNIVERSITY

Fall 2013

PHONE: (604) 888-7511

WEBSITE: [twu.ca](http://twu.ca)

CONTACTS: Bob Kuhn, President  
(604) 888-7511  
[bob.kuhn@twu.ca](mailto:bob.kuhn@twu.ca)

Jennifer Watton, Media Relations  
(604) 513-2027 (local 3341)  
[jennifer.watton@twu.ca](mailto:jennifer.watton@twu.ca)

**APPROACH TO EDUCATION:** Founded in 1962, Trinity Western is a privately-funded university that seeks to integrate faith and learning by combining a Christian world view with a liberal arts foundation. The university's mission is to develop Christian leaders who will serve God and humanity.

**AREAS OF STUDY:** Trinity Western offers 42 undergraduate majors in Acting, Applied Linguistics, Applied Mathematics with Computer Science, Art, Biblical Studies, Biology, Biotechnology; Chemistry, Christianity and Culture, Communications, Computing Science, Corporate Communications, Drama, English, Environmental Studies, European Studies, Fine Arts, General Studies, Geography, History, Humanities, Human Services, Inter-Cultural Religious Studies, International Studies, Linguistics, Mathematics, Modern Languages, Music, Natural and Applied Sciences, Nursing, Philosophy, Political Studies, Psychology, Religious Studies, Social Sciences, TESOL. Graduate studies include Biblical Studies; Business Administration; Counseling Psychology; Interdisciplinary Humanities; Leadership; Linguistics; Marriage and Family Therapy; Nursing; Teaching English to Speakers of Other Languages.

**STUDENT POPULATION:** Over 4,000 students are currently enrolled, with almost equal numbers of men and women; nearly half of the full-time students live on campus. Trinity Western has over 24,000 alumni.

**EXCELLENCE IN EDUCATION:** Trinity Western is consistently ranked as one of Canada's top universities by the Globe & Mail University Report and Maclean's magazine. Despite being a relatively small school, it has won seven national championships in sports such as volleyball and soccer.

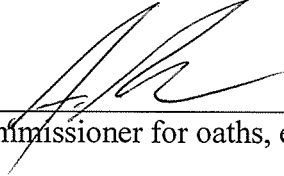
**FACULTY MEMBERS:** Over 85 per cent of full-time faculty hold doctoral degrees; 87 per cent have taught at public universities. Faculty members represent a broad range of denominations.

**COMMUNITY COVENANT:** Trinity Western welcomes all students who want to attend— regardless of sex, race, color or creed—as long as they meet certain academic standards and agree to abide by responsibilities of membership in the university community. In demonstrating their commitment to those responsibilities, all students (and faculty) are required to sign a document that includes the provision they will agree to abstain from promiscuous behaviour and extra-martial sexual activity.

The broader thrust of the document seeks to create a positive learning environment and asks students to agree to love one another, and to show respect for all people regardless of race or gender; to be honest with one another, and not to steal; to refrain from substance abuse, including alcohol, tobacco, marijuana (and other illegal substances), and the viewing of pornography; and to make a habit of edifying others, showing compassion, demonstrating unselfishness and displaying patience.

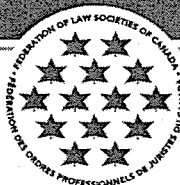
**HEALTHY COMMUNITY:** While Trinity Western deals with the same challenges as do other universities and colleges in Canada, it has an extraordinary fifty-one-year history of promoting a healthy community and personal standards through its Community Covenant and otherwise. This has translated into TWU students experiencing a positive atmosphere on campus, resulting in significantly fewer instances of harmful or destructive behavior such as has been experienced by other universities.

This is Exhibit "E" to the Affidavit of Cheryl McKinnon  
Sworn Before Me in the City of Toronto, Province of Ontario  
This 28<sup>th</sup> day of May, 2014



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A Commissioner for oaths, etc.



December 16, 2013

Canada's Law Societies

**Re: Trinity Western University's Proposed Law School Program**

Dear Colleagues,

I wish to inform you that the Canadian Common Law Program Approval Committee (the "Approval Committee") of the Federation of Law Societies of Canada has granted preliminary approval to a proposed law school program at Trinity Western University ("TWU"). After a thorough review, the Approval Committee has determined that, if implemented as proposed, the program will satisfy the National Requirement adopted by the law societies.

While granting the program preliminary approval, the Approval Committee identified three concerns and made one comment on aspects of the program that it will monitor in the regular reviews to which all law school programs are subject. The concerns relate to the teaching of legal ethics and public law, as well as the budget for the proposed school. A copy of the full report is available on the Federation's website at <http://www.flsc.ca/en/twu-common-law-program/>.

Approval of the academic program is only one phase in the development of a new law school in Canada. Provincial government authorities decide whether universities can offer specific degree programs. In this case, the British Columbia Ministry of Advanced Education would have to consent to TWU offering a new law degree program.

As you know, the Federation established a special advisory committee of respected leaders of the legal profession to provide advice on a number of issues raised in response to TWU's application that were not within the mandate of the Approval Committee. The Special Advisory Committee on Trinity Western University's Proposed School of Law (the "Special Advisory Committee") has concluded that there is no public interest reason to exclude future graduates of TWU's program from law society bar admission programs if the program meets the National Requirement. The report of the Special Advisory Committee is also available on the Federation's website at <http://www.flsc.ca/en/twu-common-law-program/>.

The reports are the culmination of a rigorous process that took place in a unique environment. The question of whether a proposed law school program meets the law school training requirements for entrance into law society bar admission programs evolved into something more. The Federation was drawn into a larger societal debate about equality rights and religious freedom, about university community standards and the distinction between public and private institutions, about the dividing line between identity and conduct in matters relating to sexual orientation, and about whether a religiously-affiliated school can provide an appropriate legal education. With TWU's

proposal to establish a law school, a debate that has challenged American legal educators and regulators for decades, found its way into Canada for the first time.

Consideration of TWU's application took place in the midst of a very public discussion that brought out strong and often emotional views. The Federation received many letters and emails raising deep concerns about the impact of TWU's Community Covenant Agreement on lesbian, gay, bisexual and transgendered individuals. The Federation respects these concerns. We also recognize the obligation to balance equality rights and freedom of religion.

Members of the legal profession are required to meet high ethical standards. They are also bound to uphold the Rule of Law and the fundamental values set out in the Constitution of Canada, including the *Charter of Rights and Freedoms* and human rights legislation. Adherence by lawyers to principles of non-discrimination in the exercise of their professional duties is an essential part of what defines a member of the profession.

The Special Advisory Committee has recommended that consideration be given to adding a non-discrimination provision to the National Requirement similar to that required of American law schools. The Council agrees that this suggestion should be explored.

From the outset, the Federation has been committed to ensuring that the review of TWU's application was thorough and fair. We are satisfied that the Approval Committee met the highest standards of fairness in fulfilling its task.

To ensure consistency across the country, the law societies approved the establishment of the Approval Committee with the intent that it render binding decisions. The law societies, however, have the statutory authority to set policies for admission to the legal profession in their jurisdictions.


As the reports make clear, the Federation's role does not extend to determining if TWU is entitled or authorized to open a law school or issue law degrees. Those are decisions for the Legislative Assembly and Government of British Columbia under the *Degree Authorization Act*, SBC 2002, c.24.

TWU's Community Covenant Agreement that was the focus of much of the debate over its proposed law school program applies not only to the proposed law school but to all existing TWU students and faculty, and as such, is a broader issue that only the BC government can address. The Federation considers that the debate about the form or content of a university code of conduct, such as the Community Covenant Agreement prescribed by TWU, is one that is more appropriately had with the relevant government

authorities in the context of legislation and regulations that direct their oversight of educational institutions.

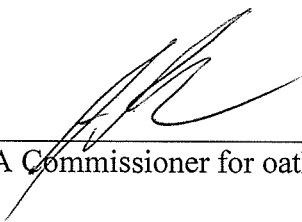
Should you require more information about the Federation's law school program approval process, please consult the Federation's website at [www.flsc.ca](http://www.flsc.ca).

Yours truly,



Marie-Claude Bélanger-Richard, Q.C.  
President

This is Exhibit "F" to the Affidavit of Cheryl McKinnon  
Sworn Before Me in the City of Toronto, Province of Ontario  
This 28<sup>th</sup> day of May, 2014



---

A Commissioner for oaths, etc.



## Law School Application Statistics

The following are statistics for applicants to Ontario law schools. OUAC began processing applications for the Law schools in 1997.

### System Data

Year	Applicants - 1st and Upper Year	Applicants - 1st Year	Registrants - 1st Year
1997	3,594	3,319	1,091
1998	3,391	3,195	1,093
1999	3,414	3,238	1,088
2000	3,415	3,245	1,103
2001	3,390	3,190	1,190
2002	3,670	3,457	1,176
2003	3,900	3,682	1,160
2004	4,100	3,863	1,231
2005	4,125	3,905	1,265
2006	4,341	4,075	1,266
2007	4,469	4,160	1,234
2008	4,425	4,071	1,287
2009	4,408	4,091	1,350
2010	4,953	4,609	1,405
2011	5,125	4,717	1,376
2012	5,063	4,686	1,388
2013	5,127	4,758	1,502

### Individual University Data

Year	Lakehead		Osgoode		Ottawa		Queen's	
	Applicants - 1st Year	Registrants - 1st Year	Applicants - 1st Year	Registrants - 1st Year	Applicants - 1st Year	Registrants - 1st Year	Applicants - 1st Year	Registrants - 1st Year
1997			2,261	301	1,902	165	1,810	161
1998			2,109	272	1,815	179	1,842	164
1999			2,146	279	1,835	196	1,804	156
2000			2,068	287	1,901	179	1,848	165
2001			2,099	292	1,864	244	1,908	163
2002			2,264	295	2,042	220	2,174	170
2003			2,399	288	2,330	196	2,252	161
2004			2,420	312	2,536	257	2,351	165
2005			2,427	298	2,635	283	2,418	163
2006			2,403	301	2,786	302	2,347	154
2007			2,544	288	2,903	271	2,494	163
2008			2,638	329	2,967	294	2,529	154



2009			2,749	289	2,745	342	2,290	155
2010			3,086	310	3,098	381	2,632	168
2011			3,107	290	3,242	376	2,797	158
2012			3,136	299	3,245	377	2,690	162
2013	1,135	60	3,106	306	3,199	386	2,786	164

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Year	Toronto		Western		Windsor	
	Applicants - 1st Year	Registrants - 1st Year	Applicants - 1st Year	Registrants - 1st Year	Applicants - 1st Year	Registrants - 1st Year
1997	1,674	174	2,040	139	1,605	151
1998	1,734	168	1,858	159	1,490	151
1999	1,609	162	1,891	153	1,419	142
2000	1,631	166	1,940	159	1,346	147
2001	1,662	169	1,947	155	1,414	167
2002	1,776	161	2,123	146	1,585	184
2003	1,736	163	2,235	152	1,707	200
2004	1,861	173	2,346	144	1,858	180
2005	1,828	170	2,256	158	1,849	193
2006	1,786	178	2,380	153	1,910	178
2007	1,855	156	2,469	152	2,065	204
2008	2,027	175	2,428	141	2,005	194
2009	1,917	188	2,230	159	1,892	217
2010	2,205	183	2,475	157	2,055	206
2011	2,092	183	2,679	143	2,178	226
2012	1,892	179	2,641	157	2,252	214
2013	1,765	193	2,713	155	2,290	238

This is the 2<sup>nd</sup> Affidavit  
of Cheryl McKinnon in this case  
and was made on May 28<sup>th</sup>, 2014

No. S-142908  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**BETWEEN:**

TREVOR JAMES LOKE

**PETITIONER**

AND

MINISTER OF ADVANCED EDUCATION OF BRITISH COLUMBIA

**RESPONDENT**

**AFFIDAVIT #2 OF CHERYL MCKINNON**

JFK Law Corporation  
340 – 1122 Mainland Street  
Vancouver, BC V6B 5L1  
Telephone: 604-687-0549  
Attention: Karey M. Brooks, File No.: 1202-001



This is the 1<sup>st</sup> Affidavit  
of Charleen Kilian in this case  
and was made on May 29<sup>th</sup>, 2014

No. S-142908  
VANCOUVER REGISTRY


**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**BETWEEN:**

This is Exhibit " N " referred to in the  
affidavit of Tracy Tso  
sworn before me at Vancouver  
this 16 day of January 2015

TREVOR JAMES LOKE

**PETITIONER**

  
A Commissioner for taking Affidavits  
for British Columbia

AND

MINISTER OF ADVANCED EDUCATION OF BRITISH COLUMBIA

**RESPONDENT**

**AFFIDAVIT**

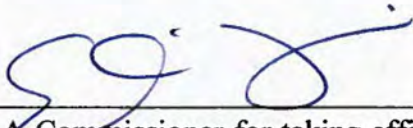
I, CHARLEEN KILIAN, Legal Assistant, of Suite 340 – 1122 Mainland Street, Vancouver, British Columbia, MAKE OATH AND SAY THAT:

1. I am a Legal Assistant with the law firm of JFK Law Corporation, counsel for the Petitioner herein, and as such have personal knowledge of the matters hereinafter deposed to, except where they are stated to be made on information and belief, and where so stated I believe them to be true.

2. Attached and marked as Exhibit "A" to my Affidavit is a true copy of a response to a Freedom of Information Request for Access to Records dated February 17, 2014, File Number AED-2014-00010 from Maxine Vanzetta, Manager of Information Access Operations, Ministry of Technology, Innovation and Citizens' Services. On May 29, 2014, I located the response at the following website:  
[http://docs.openinfo.gov.bc.ca/D10615314A\\_Response\\_Letter\\_AED-2014-00010.PDF](http://docs.openinfo.gov.bc.ca/D10615314A_Response_Letter_AED-2014-00010.PDF) and the

attachments to the request at the website:  
[http://docs.openinfo.gov.bc.ca/D10615214A\\_Response\\_Package\\_AED-2014-00010.PDF](http://docs.openinfo.gov.bc.ca/D10615214A_Response_Package_AED-2014-00010.PDF).

SWORN before me at the City of  
Vancouver, in the Province of British  
Columbia, this 29<sup>th</sup> day of May, 2014.



A Commissioner for taking affidavits  
for British Columbia



CHARLEEN KILIAN

**Ellen R.S. Sigurdson**  
*Barrister & Solicitor*  
340 - 1122 Mainland Street  
Vancouver, BC V6B 5L1  
(604) 687-0549





ARCS: 292- 30  
File: AED-2014-00010

February 17, 2014

Sent via email: [NDP.FOI@leg.bc.ca](mailto:NDP.FOI@leg.bc.ca)

Jared Butcher  
New Democrat Caucus  
Victoria BC V8V 1X4

This is Exhibit "A" referred to in  
the affidavit of Charles Killan  
sworn before me at Vancouver  
this 29th day of May 2014  
[Signature]  
A Commissioner for taking Affidavits  
for British Columbia

Dear Jared Butcher:

**Re: Request for Access to Records**  
***Freedom of Information and Protection of Privacy Act (FOIPPA)***

I am writing further to your request received by the Ministry of Advanced Education. Your request is for:

**Copies of all correspondence (letters and electronic), excluding attachments, received by the Minister's Office from BC Liberal MLAs including cabinet ministers and any and all replies. Timeframe is December 1-31, 2013.**

Please find enclosed a copy of the records located in response to your request. Some information has been withheld pursuant to section 22 (Disclosure harmful to personal privacy) of FOIPPA. Copies of these sections of FOIPPA are provided for your reference. A complete copy of FOIPPA is available online at:

[http://www.bclaws.ca/EPLibraries/bclaws\\_new/document/ID/freeside/96165\\_00](http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/96165_00)

Your file is now closed.

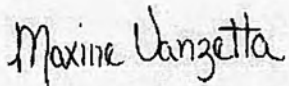
These records will be published on the BC Government's Open Information website a minimum of 72 hours after electronic release or a minimum of five business days after release by mail in hardcopy. To find out more about Open Information, please access the Open Information website at: <http://www.openinfo.gov.bc.ca/ibc/index.page>

.../2

If you have any questions regarding your request, please contact Bethany Haak, the analyst assigned to your request, at 250-356-1885. This number can be reached toll-free by calling from Vancouver, 604-660-2421, or from elsewhere in BC, 1-800-663-7867 and asking to be transferred to 250-356-1885.

You have the right to ask the Information and Privacy Commissioner to review this decision. I have enclosed information on the review and complaint process.

Sincerely,

A handwritten signature in cursive script that reads "Maxine Vanzetta".

Maxine Vanzetta, Manager  
Health / Education Team  
Information Access Operations

Enclosures

How to Request a Review with the  
Office of the Information and Privacy Commissioner

If you have any questions regarding your request please contact the analyst assigned to your file. The analyst's name and telephone number are listed in the attached letter.

Pursuant to section 52 of the *Freedom of Information and Protection of Privacy Act* (FOIPPA), you may ask the Office of the Information and Privacy Commissioner to review any decision, act, or failure to act with regard to your request under FOIPPA.

**Please note that you have 30 business days to file your review with the Office of the Information and Privacy Commissioner. In order to request a review please write to:**

Information and Privacy Commissioner  
PO Box 9038 Stn Prov Govt  
4th Floor, 947 Fort Street  
Victoria BC V8W 9A4  
Telephone 250-387-5629      Fax 250-387-1696

If you request a review, please provide the Commissioner's Office with:

1. A copy of your original request;
2. A copy of our response; and
3. The reasons or grounds upon which you are requesting the review.



**Shaw, Judy E AVED:EX**

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**From:** Tegart.MLA, Jackie [Jackie.Tegart.MLA@leg.bc.ca]  
**Sent:** Friday, December 6, 2013 3:28 PM  
**To:** Robson, William AVED:EX  
**Subject:** FW: Policy in Post Secondary Education - my concerns and issues as a student loan borrower

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Hello Will,  
The letter from our constituent is below.

shirlee

S. 22  
**From:** [REDACTED]  
**Sent:** December 4, 2013 10:41 PM  
**To:** Tegart.MLA, Jackie  
**Subject:** Fw: Policy in Post Secondary Education - my concerns and issues as a student loan borrower

December 4, 2013

S. 22  
[REDACTED]

RE: Post-Secondary Education

To whom it may concern,  
s.22  
[REDACTED]



My question to you, as a post-secondary student in this Province where can I go to get help in this matter? Who is the contact on the federal level that can address this and at least consider my situation and request? I am long since frustrated and disappointed in the system of student aid in this Province and where it has gone. I have faithfully been honest, made payments when necessary only to be place in a situation where policy, and a calculation dictates the opportunity my education. It is hard to advocate for such programs as student loans an educator.

Please, provide me with contact to have this situation address. Perhaps it is time to consider part-time students, or graduate students who are in situations such as mine and have them have the opportunity to access a repayment program of some sort, especially in situation where they are not asking for more money to pay back. I find it interesting that a person can go to a car dealership, get zero interest on a new vehicle, pay low payments for 72 months and a situation such as this cannot be devised by our government.

Sincerely,

S. 22

6

Sent from Windows Mail

**Shaw, Judy E AVED:EX**

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7

**From:** Virk.MLA, Amrik [Amrik.Virk.MLA@leg.bc.ca]  
**Sent:** Thursday, December 5, 2013 12:38 PM  
**To:** Krzymowski, Sarah AVED:EX  
**Cc:** Robson, William AVED:EX  
**Subject:** FW: Policy in Post Secondary Education - my concerns and issues as a student loan borrower

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Hi Sarah,

Here is the letter that we spoke about on the phone. I think it can be considered Ministry correspondence.

All the best.

--  
Respectfully,

**Jared Penland**  
Constituency Assistant to  
Amrik S. Virk, M.L.A. Surrey-Tynehead  
201-15135 101 Avenue, Surrey BC, V3R 7W1  
T: 604-586-3747  
F: 604-584-4741  
E: Jared.Penland@leg.bc.ca

S. 22

**From:** [REDACTED]  
**Sent:** December 4, 2013 10:40 PM  
**To:** Virk.MLA, Amrik  
**Subject:** Fw: Policy in Post Secondary Education - my concerns and issues as a student loan borrower

December 4, 2013

S. 22

RE: Post-Secondary Education

To whom it may concern,

**From:** Robson, William AVED:EX  
**Sent:** Monday, December 16, 2013 12:01 PM  
**To:** Strongitharm, Sheryl L LASS:EX  
**Subject:** RE: Trinity Western University – Law School Proposal

Hi Sheryl,

This is not an official statement, but this is where the Law Degree is currently at as of this morning.

As part of the approval process, Trinity Western University's proposed law degree has undergone a two-stage assessment review. This includes a review by Federation of Law Societies of Canada as to whether the degree would be considered sufficient to enable graduates to be admitted to the bar and practice law as well as a program quality assessment by the Degree Quality Assessment Board.

With the preliminary approval of the Federation of Law Societies of Canada and the review by the Degree Quality Assessment Board on the quality of the program, the Ministry will now review the proposed degree.

Once the review process is complete, a final determination can be made.

---

**From:** Strongitharm, Sheryl [mailto:Sheryl.Strongitharm@leg.bc.ca]  
**Sent:** December-12-13 2:10 PM  
**To:** Robson, William AVED:EX  
**Subject:** FW: Trinity Western University – Law School Proposal

Hi Will;

Do you have anything on this yet?

Thank you

*Sheryl Strongitharm*  
Sheryl Strongitharm, CA  
For Rich Coleman, MLA  
For Fort Langley-Aldergrove  
#130-7888 200 St.  
Langley, B.C. V2Y 3J4  
Phone 604-882-3151

**From:** Coleman.MLA, Rich  
**Sent:** December 6, 2013 2:15 PM  
**To:** Robson, William AVED:EX  
**Subject:** FW: Trinity Western University – Law School Proposal

Dear Will;



Can you please put into writing confirmation of the Law School at Trinity Western University will be going through as they are suggesting?

9

This would only be to Rich in writing for his confirmation.

Thank you

*Sheryl Strongitharm*

Sheryl Strongitharm, CA  
For Rich Coleman, MLA  
For Fort Langley-Aldergrove  
#130-7888 200 St.  
Langley, B.C. V2Y 3J4  
Phone 604-882-3151

**From:** Bob Kuhn [<mailto:bkuhn@kuhnco.net>]  
**Sent:** December 2, 2013 12:22 AM  
**To:** Coleman.MLA, Rich  
**Subject:** RE: Trinity Western University – Law School Proposal

Please pass along my thanks to the Deputy Premier for his assistance throughout. I truly appreciate men and women of principle that do not bow to the weight of local interest groups. Unfortunately, recent months have been a frustrating experience resulting in costly delays. I would've hoped for better response from Minister Virk, reflecting the long and cordial relationship we have enjoyed with your government. However, we will celebrate the news, once it becomes public, and put this chapter behind us in the hopes that future relations will improve.

Thanks again for your interest and willingness to assist.

Bob

**From:** Coleman.MLA, Rich [<mailto:Rich.Coleman.MLA@leg.bc.ca>]  
**Sent:** Thursday, November 28, 2013 8:32 PM  
**To:** Bob Kuhn  
**Subject:** RE: Trinity Western University – Law School Proposal

That's wonderful news.

Rich has spoken with Minister Virk regarding this issue on several occasions.

Yours sincerely

*Sheryl Strongitharm*

Sheryl Strongitharm, CA  
For Rich Coleman, MLA  
For Fort Langley-Aldergrove  
#130-7888 200 St.  
Langley, B.C. V2Y 3J4

**From:** Bob Kuhn [<mailto:bkuhn@kuhnco.net>]  
**Sent:** November 28, 2013 3:30 PM  
**To:** Coleman.MLA, Rich  
**Subject:** RE: Trinity Western University – Law School Proposal

Deputy Premier;

Her request further information comes at an ideal time. Discussions took place yesterday between our office and that of the Federation of Law Societies regarding its approval of our Law School proposal. It is anticipated that an announcement will be forthcoming in the first two weeks of January, 2014. Further, we had a telephone conversation with Minister Virk, who confirmed that his decision would be communicated very quickly after receipt of the Federation decision.

We are satisfied with these responses and thank you for your ready assistance in the past in respect to these matters.

Yours truly,

Bob Kuhn

**From:** Coleman.MLA, Rich [<mailto:Rich.Coleman.MLA@leg.bc.ca>]  
**Sent:** Wednesday, November 27, 2013 4:50 PM  
**To:** Bob Kuhn  
**Subject:** RE: Trinity Western University – Law School Proposal

Dear Mr. Kuhn;

Can you please advise me of the status of this proposal?

Thank you

*Sheryl Strongitharm*

Sheryl Strongitharm, CA  
For Rich Coleman, MLA  
For Fort Langley-Aldergrove  
#130-7888 200 St.  
Langley, B.C. V2Y 3J4  
Phone 604-882-3151

**From:** Bob Kuhn [<mailto:bkuhn@kuhnco.net>]  
**Sent:** November 10, 2013 3:59 PM  
**To:** Coleman.MLA, Rich  
**Subject:** Trinity Western University – Law School Proposal

Minister Coleman;

I had been hoping to speak with you on Thursday evening at the Teresa Wat fundraiser in Richmond. I enjoyed meeting a number of people, including having time to talk with Minister Virk. 11

I have just now sent to an email to the Minister confirming our conversation, and requesting that a communication of the final decision regarding the TWU law school proposal be made as soon as possible. The following is a paragraph from that email.

"While I fully appreciate your desire to maintain consistency with the Federation, both in approach and conclusion, I would respectfully request your decision in the very near future. As you know, our proposal has been outstanding for approximately 16 months, which required us to maintain a readiness to proceed immediately upon notice being given as to approval. This "state of readiness" has now become a prolonged status, restricting our ability to either proceed with the law school, or move in other directions. In order to maximize our potential to be successful in the startup phase, we would very much appreciate receipt of your approval in the very near term. I do not mean to be presumptuous, but it would be extremely beneficial, both to TWU and its supporting constituencies, to have a conclusion communicated to us by no later than November 21. On that date we are holding our Christmas in the City Gala at the Vancouver Hotel. In attendance will be several hundred of our major business and high net worth supporters. We've also invited a number of our local Liberal MLAs. This might be an ideal opportunity for you, or one of the other ministers (Fassbender, Coleman or Polak) local to the campus area, to make an announcement."

I believe that invitations were sent out to you, Mary and Peter for the Christmas in the City Gala. I think it would be great for our constituency have the law school announcement made at that event, if possible.

If you have any ideas or suggestions, please let me know by calling my cell or sending me an email. My cell number is s.22

As always, respectfully yours,

Bob

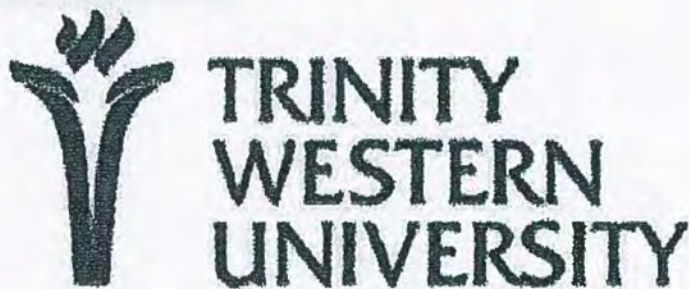
Robert G. Kuhn

President

T: 604.513.2186

F: 604.513.2145

s.22



EDUCATION. TRANSFORMATION. IMPACT.



**Shaw, Judy E AVED:EX**

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**From:** Lee.MLA, Richard LASS:EX  
**Sent:** Friday, December 20, 2013 4:01 PM  
**To:** Robson, William AVED:EX; Gill, Manjit AVED:EX  
**Cc:** Begin, Robert G LASS:EX; Facey, Nick AVED:EX; Robson, William AVED:EX; Klepsch, Kadagn LASS:EX  
**Subject:** RE: Last email

It is a hot seat, I know.

**From:** Robson, William AVED:EX [<mailto:William.Robson@gov.bc.ca>]  
**Sent:** December 20, 2013 3:55 PM  
**To:** Gill, Manjit AVED:EX  
**Cc:** Begin, Robert Gary; Facey, Nick AVED:EX; Lee, Richard; Robson, William AVED:EX; Lee.MLA, Richard; Klepsch, Kadagn  
**Subject:** Re: Last email

I must be missing something... It looks good to me

On 20 Dec 2013 15:53, "Gill, Manjit AVED:EX" <[Manjit.Gill@gov.bc.ca](mailto:Manjit.Gill@gov.bc.ca)> wrote:

Please disregard.

Wrong photo attached. I'm having technical issues opening attachments on my device

Hope it made you at least chuckle

Regards

Manjit

Sent from my BlackBerry 10 smartphone on the TELUS network.



**Shaw, Judy E AVED:EX**

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**From:** Lee.MLA, Richard LASS:EX  
**Sent:** Tuesday, December 17, 2013 9:51 PM  
**To:** Facey, Nick AVED:EX  
**Cc:** Gill, Manjit AVED:EX; Robson, William AVED:EX  
**Subject:** RE: media avail friday 10:30am PVO

Hi Nick, Yes. I am available. Richard.

**From:** Facey, Nick AVED:EX [<mailto:Nick.Facey@gov.bc.ca>]  
**Sent:** December 17, 2013 2:35 PM  
**To:** Lee.MLA, Richard  
**Cc:** Gill, Manjit AVED:EX; Robson, William AVED:EX  
**Subject:** media avail friday 10:30am PVO

Hello Richard,

Are you available to join Minister Virk at PVO this Friday for a media availability at 10:30am ?

We'll pre-brief beforehand, I've set aside a meeting room for us to talk in. Announcement will be released simultaneously.

Regards,  
-N



Our Ref: 96256

**DEC 18 2013**

Mr. Richard T. Lee  
Parliamentary Secretary for Traditional Chinese Medicine  
MLA Burnaby North  
East Annex  
Parliament Buildings  
Victoria, BC V8V 1X4

Dear Mr. Lee:

Congratulations on your new appointment as Parliamentary Secretary to the Minister of Advanced Education for Traditional Chinese Medicine.

The February 2013 Speech from the Throne commits that "government will begin work to create the environment for a school of Traditional Chinese Medicine (TCM) at a British Columbian post-secondary institution." A School of TCM with international partnerships has the potential to benefit British Columbians by expanding access to preventative, holistic health services and by providing global learning opportunities.

The school of TCM (the School) is to be established at a public post-secondary institution and work is underway to establish the School. It is critical that there be sufficient government support to ensure a high quality and sustainable School.

Under the direction of the Minister of Advanced Education, the Parliamentary Secretary will serve as the Special Advisor to the Program Advisory Committee, will act as the liaison between the Program Advisory Committee and the broader community, and will submit a report to me by May 31, 2014 that identifies specific opportunities and challenges with establishing the School.

The responsibilities for this important role are set out in the attached document. Please sign this letter at your earliest convenience and return the original to my office.

Ministry of  
Advanced Education

Office of the  
Minister

Mailing Address:  
PO Box 9080 Stn Prov Govt  
Victoria BC V8W 9E2

Location:  
Parliament Buildings  
Victoria

1!

My office will schedule monthly meetings for you to update me on your progress. I look forward to working with you.

Sincerely,



Amrik Virk  
Minister

Attachment

pc: The Honourable Christy Clark

I acknowledge the importance and scope of the role of Parliamentary Secretary for Traditional Chinese Medicine and agree to fulfill the responsibilities as set out in the attached document.

Signed:           Ruhel Loo          

Date:           Dec. 20, 2013

This is the 1<sup>st</sup> Affidavit  
of Charleen Kilian in this case  
and was made on May 29<sup>th</sup>, 2014

No. S-142908  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH  
COLUMBIA**

**BETWEEN:**

TREVOR JAMES LOKE

**PETITIONER**

AND

MINISTER OF ADVANCED EDUCATION OF  
BRITISH COLUMBIA

**RESPONDENT**

**AFFIDAVIT NO. 1 OF  
CHARLEEN KILIAN**

JFK Law Corporation  
340 – 1122 Mainland Street  
Vancouver, BC V6B 5L1  
Karey M. Brooks, File No.: 1202-001



This is Exhibit "0" referred to in the affidavit of Trevor Loke sworn before me at Vancouver this 16 day of January 2015

[Signature]  
A Commissioner for taking Affidavits  
for British Columbia



This is the 1st Affidavit of Anne Macaulay in this case and was made on 28/08/2014

No. S-142908  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN

**TREVOR JAMES LOKE**

PETITIONER

AND

**MINISTER OF HIGHER EDUCATION OF BRITISH COLUMBIA and  
TRINITY WESTERN UNIVERSITY**

RESPONDENTS

**AFFIDAVIT**

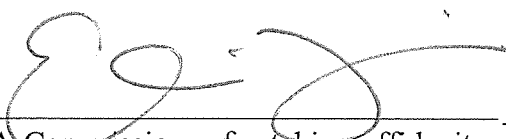
I, Anne Macaulay, Legal Assistant, of Vancouver, British Columbia, MAKE OATH AND SAY THAT:

1. I am a legal assistant at the law firm of JFK Law Corporation, and as such have personal knowledge of the matters deposed to, except where they are stated to be made on information and belief, and where so stated I believe them to be true.
2. JFK Law Corporation, counsel for the Petitioner, filed a Freedom of Information (FOI) request of the Province of British Columbia in relation to the decision of the Minister in this Petition. Our office received the result of that FOI request, under file number AED-2014-00041, on July 30, 2014.
3. A true copy of an extract of the FOI documents is attached as Exhibit "A" to my affidavit. These are attached in reply to the affidavit of Dorothy Rogers, made June 27, 2014, at paragraph 40.
4. I accessed the website of the Federation of Law Societies of Canada at <http://www.flsc.ca/en/twu-submissions/> and obtained copies of documents referred to in the FOI documents attached as Exhibit "A". A true copy of a letter dated November 20,

2012 from the Canadian Council of Law Deans to the Federation of Canadian Law Societies is attached as **Exhibit "B"** to my affidavit. A true copy of a letter dated March 8, 2013 from the National Association of Women and the Law to the Federation of Canadian Law Societies is attached as **Exhibit "C"** to my affidavit. A true copy of a letter dated March 18, 2013 from the Canadian Bar Association to the Federation of the Law Societies of Canada is attached as **Exhibit "D"** to my affidavit.

5. A true copy of a further extract of the FOI documents is attached as **Exhibit "E"** to my affidavit. These are attached in reply to the response of the Respondent Trinity Western University at paragraph 39.

SWORN before me at the City of  
Vancouver, in the Province of British  
Columbia, this 28<sup>th</sup> day of August,  
2014.

  
A Commissioner for taking affidavits  
for British Columbia

  
ANNE MACAULAY

**Elin R.S. Sigurdson**  
Barrister & Solicitor  
340 - 1122 Mainland Street  
Vancouver, BC V6B 5L1  
(604) 687-0549

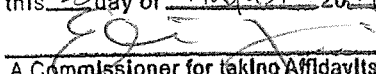
**Jothen, Janet M AVED:EX**

**From:** AVED Degree Quality Assessment Board Secretariat AVED:EX  
**Sent:** Monday, August 12, 2013 7:27 AM  
**To:** Bakowski, Valarie AVED:EX; Rogers, Dorothy AVED:EX; Thiessen-Wale, Katherine AVED:EX  
**Cc:** AVED Degree Quality Assessment Board Secretariat AVED:EX  
**Subject:** FW: Proposed School of Law at Trinity Western University

FYI – another one in the DQAB inbox, copied to the Minister.

**Vicki Simmons**  
Senior Policy Analyst  
Governance and Quality Assurance Branch  
BC Ministry of Advanced Education

3rd Floor, 835 Humboldt St  
PO Box 9883 Stn Prov Govt  
Victoria BC V8W 9T6  
(T) 250-356-2067 | (F) 250-387-3750 | (E) [vicki.simmons@gov.bc.ca](mailto:vicki.simmons@gov.bc.ca)

This is Exhibit "A" referred to in  
the affidavit of Anne Macaulay  
sworn before me at Vancouver, BC  
this 28 day of August 2014  
  
A Commissioner for taking Affidavits  
for British Columbia

**From:** S22  
**Sent:** Sunday, August 11, 2013 3:24 PM  
**To:** [info@flsc.ca](mailto:info@flsc.ca); AVED Degree Quality Assessment Board Secretariat AVED:EX; Minister, AVED AVED:EX;  
[david.eby.mla@leg.bc.ca](mailto:david.eby.mla@leg.bc.ca)  
**Subject:** Proposed School of Law at Trinity Western University

Good morning

Because of its discriminatory admittance and hiring policies, I feel strongly that the proposed School of Law at Trinity Western University to be rejected.

TWU's policies violate the fundamental notion of equality. Approving their law school would create an extra path to becoming a lawyer in Canada that is not available to students who do not fit with TWU's vision of heterosexual Christians.

It is well documented that TWU's Community Covenant discriminates against gay and lesbian students. The Covenant also requires that students adopt an anti-choice stance (students must "uphold...worth from conception") contrary to Canada's ongoing commitment to women's reproductive freedoms. Furthermore, the mandatory Statement of Faith for faculty and staff discriminates against the non-religious and others who are not Christian. These restrictions threaten academic freedom at TWU.

For these reasons I would like you to reject the public funding of this discriminatory law school.

Sincerely,

S22

**Jothen, Janet M AVED:EX**

---

**From:** Simmons, Vicki AVED:EX  
**Sent:** Thursday, August 8, 2013 2:38 PM  
**To:** AVED Degree Quality Assessment Board Secretariat AVED:EX  
**Subject:** FW: Reject proposed TWU Law School  
**Attachments:** 2013-08-14 Position - Reject TWU Law School.pdf; TWU-letter.pdf

---

**From:** AVED Degree Quality Assessment Board Secretariat AVED:EX  
**Sent:** Thursday, August 8, 2013 2:38 PM  
**To:** Bakowski, Valarie AVED:EX; Rogers, Dorothy AVED:EX; Thiessen-Wale, Katherine AVED:EX; Wyllie, Sandra AVED:EX  
**Subject:** FW: Reject proposed TWU Law School

Hi,

This was just received in the DQAB inbox. I see that it was also sent to the Minister, so it will be coming from MCRU for drafting bullets for response.

Vicki

---

**Vicki Simmons**

Senior Policy Analyst  
Governance and Quality Assurance Branch  
BC Ministry of Advanced Education

3rd Floor, 835 Humboldt St  
PO Box 9883 Stn Prov Govt  
Victoria BC V8W 9T6  
(T) 250-356-2067 | (F) 250-387-3750 | (E) [vicki.simmons@gov.bc.ca](mailto:vicki.simmons@gov.bc.ca)

**From:** S22 **On Behalf Of** Ian Bushfield  
**Sent:** Thursday, August 8, 2013 2:26 PM  
**To:** [info@flsc.ca](mailto:info@flsc.ca); [david.eby.mla@leg.bc.ca](mailto:david.eby.mla@leg.bc.ca); Minister, AVED AVED:EX; AVED Degree Quality Assessment Board Secretariat AVED:EX  
**Subject:** Reject proposed TWU Law School

**To:**

Federation of Law Societies of Canada Special Advisory Committee on TWU's Proposed School of Law

Degree Quality Assessment Board, Government of British Columbia

Amrik Virk, Minister of Advanced Education, Government of British Columbia

David Eby, Opposition Critic for Advanced Education

Because of its discriminatory admittance and hiring policies, the BC Humanist Association calls for the proposed School of Law at Trinity Western University to be rejected.



TWU's policies violate the fundamental notion of equality. Approving their law school would create an extra path to becoming a lawyer in Canada that is not available to students who do not fit with TWU's vision of heterosexual Christians.

It is well documented that TWU's Community Covenant discriminates against gay and lesbian students. The Covenant also requires that students adopt an anti-choice stance (students must "uphold...worth from conception") contrary to Canada's ongoing commitment to women's reproductive freedoms. Furthermore, the mandatory Statement of Faith for faculty and staff discriminates against the non-religious and others who are not Christian. These restrictions threaten academic freedom at TWU.

Our Board of Directors, in solidarity with numerous other organizations, have taken a strong stance against this proposal (see attached) and urge the FLSC and Government of British Columbia to stand up for prospective LGBT and non-Christian lawyers by rejecting this discriminatory law school.

Sincerely,

Ian Bushfield  
Executive Director  
BC Humanist Association

**BRITISH COLUMBIA HUMANIST ASSOCIATION**

400 – 3381 Cambie Street  
Vancouver, BC V5Z 4R3

bchumanist.ca  
info@bchumanist.ca



**BC HUMANIST  
ASSOCIATION**

**Reject the TWU Law Degree Program**

For ratification: 14 August 2013

Whereas Humanism is committed to the equal dignity of all persons, regardless of belief or sexual orientation, and to the separation of church and state;

Whereas the *UN Declaration of Human Rights*, the *Canadian Charter of Rights and Freedoms*, and the *BC Human Rights Code* prohibit discrimination on the basis of religion or sexual orientation;

Whereas Trinity Western University's (TWU) Community Covenant discriminates against women<sup>1</sup> and against gay, lesbian, and bisexual students<sup>2</sup>;

Whereas the Canadian Association of University Teachers (CAUT) determined TWU's policies, including their mandatory Statement of Faith for faculty and staff, violate the principle of academic freedom<sup>3</sup>;

Whereas TWU has received at least \$6.3 million in funding from the Governments of BC and Canada<sup>4</sup>;

Whereas TWU has applied the Federation of Law Societies of Canada (FLSC) to create an accredited law school;

And whereas a rejection of TWU's application by the FLSC could potentially survive a court challenge<sup>5</sup>;

The Board of Directors of the British Columbia Humanist Association calls on that the Province of British Columbia and the FLSC to deny the application by TWU to create a law degree program.

<sup>1</sup> "Members of the TWU community, therefore, commit themselves to...uphold [all persons'] God-given worth from conception to death." *TWU Community Covenant Agreement* Source: <http://twu.ca/studenthandbook/twu-community-covenant-agreement.pdf>

<sup>2</sup> "...community members voluntarily abstain from...sexual intimacy that violates the sacredness of marriage between a man and a woman." *Ibid.*

<sup>3</sup> Source: <http://www.caut.ca/docs/reports/report-of-caut-ad-hoc-investigatory-committee-on-twu.pdf?sfvrsn=0>

<sup>4</sup> \$2.6 million in 2009 from both the Governments of BC and Canada source:

<http://www.ic.gc.ca/eic/site/696.nsf/eng/00512.html> and \$1.1 million in 2011 source:

[http://www.markwarawa.com/In%20the%20media/mark\\_in\\_the\\_news/twu-granted--1.1-million](http://www.markwarawa.com/In%20the%20media/mark_in_the_news/twu-granted--1.1-million)

<sup>5</sup> Craig, Elaine, "The Case for the Federation of Law Societies Rejecting Trinity Western University's Proposed Law Degree Program." *Canadian Journal of Women and the Law*, Vol. 25(1), 2013. <http://ssrn.com/abstract=2202408>

**BRITISH COLUMBIA HUMANIST ASSOCIATION**

400 – 3381 Cambie Street  
Vancouver, BC V5Z 4R3

bchumanist.ca  
info@bchumanist.ca



**BC HUMANIST  
ASSOCIATION**

**Reject the proposed School of Law at Trinity Western University**

**To:**

Federation of Law Societies of Canada Special Advisory Committee on TWU's Proposed School of Law

Degree Quality Assessment Board, Government of British Columbia

Amrik Virk, Minister of Advanced Education, Government of British Columbia

David Eby, Opposition Critic for Advanced Education

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It is well documented that TWU's Community Covenant discriminates against gay and lesbian students. The Covenant also requires that students adopt an anti-choice stance (students must "uphold...worth from conception") contrary to Canada's ongoing commitment to women's reproductive freedoms. Furthermore, the mandatory Statement of Faith for faculty and staff discriminates against the non-religious and others who are not Christian. These restrictions threaten academic freedom at TWU.

Our Board of Directors, in solidarity with numerous other organizations, have taken a strong stance against this proposal (see attached) and urge the FLSC and Government of British Columbia to stand up for prospective LGBT and non-Christian lawyers by rejecting this discriminatory law school.

Sincerely,

Ian Bushfield  
Executive Director

b

**Jothen, Janet M AVED:EX**

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**From:** Rogers, Dorothy AVED:EX  
**Sent:** Thursday, July 25, 2013 8:54 AM  
**To:** Simmons, Vicki AVED:EX  
**Subject:** FW: TWU in the morning clips -URGENT

fyi

\*\*\*\*\*

Dorothy Rogers  
Director  
Quality Assurance Unit, DQAB Secretariat  
Governance and Quality Assurance Branch  
Ministry of Advanced Education  
250-387-6298

**From:** Rogers, Dorothy AVED:EX  
**Sent:** Thursday, July 25, 2013 8:53 AM  
**To:** Wyllie, Sandra AVED:EX; Bakowski, Valarie AVED:EX  
**Subject:** RE: TWU in the morning clips -URGENT

Hi Val, see below – here is my suggested information regarding the Issues Note.

Speaking points: (after the degree is approved).

- TWU is a private university in British Columbia which receives no operating or capital funding from government.
- The TWU Juris Doctor proposal underwent a thorough review by the Degree Quality Assessment Board and it was recommended to me that the degree met the quality expectations of degree level education.
- As part of the recommendations, TWU will not be able to enrol students until the degree is reviewed by the Federation of Law Societies and approved by Law Society of British Columbia.
- I would suggest that TWU work with the Federation and critics of the to ensure that there is understanding regarding this issue.

Background:

TWU's Statement of Faith states: "the Bible is...to be believed in all that it teaches, obeyed in all that it requires, and trusted in all that it promises." All TWU faculty members must sign and adhere to the Statement of Faith by signing the following covenant: "I agree with the above Statement of Faith and agree to support that position at all times before the students and friends of Trinity Western University."

S13

Several letters were sent to the Minister and Premier in February and March 2013 opposing the proposed law school and urging the government to deny approval to TWU arguing its practices having students and faculty sign a statement of faith and Community Covenant are contrary to social justice and equality. Letters were also sent to the Federation of Law Societies of Canada from the Council of Canadian Law Deans, the Canadian Association

of Law Teachers and the National Association of Women and the Law, urging the Federation to reject TWU's application. Students at a number of Canadian law schools joined the letter writing campaign to influence the Federation of Law Societies to bar TWU from opening a law school.

Several media reports beginning in January 2013 headlined the issue of the proposed law school in the *Globe and Mail*, the *Vancouver Sun* the *Canadian Journal of Women and the Law* and the CBC. In March 2013, an FOI request was made by the media for all reports, substantial correspondence (excluding the general public) and memos, briefing notes, and submissions sent about this proposed law school.

In 2008, the Canadian Association of University Teachers (CAUT) launched an inquiry into TWU's Mission Statement and its impact on initial hiring, continued employment (tenure), and academic freedom of that institution's faculty. In 2009, CAUT published a report that concluded that TWU violates the commitment to academic freedom by requiring faculty to sign a Statement of Faith and recommended that TWU be placed on the list of institutions published by CAUT that are "found to have imposed a requirement of a commitment to a particular ideology or statement as a condition of employment."

In 2004 during TWU's application for Exempt Status, the Board reviewed the issue of academic freedom as part of TWU's exempt status application in 2004 and found that TWU has articulated its philosophy clearly and consistently and articulates the contract it undertakes with its students, faculty and staff.

During the 2013 DQAB review of the Juris Doctor proposal, the panel of law professors reviewing the program and the DQAB indicated that the proposal met the degree level standards with modifications with the condition that the Federation of Law Society approve the program prior to students being enrolled. The panel and DQAB also noted that the statement of faith may have implications on TWU ability to hire qualified faculty that TWU would extend a hiring *preference* to prospective faculty members who adhere to a particular religion, but not to have a blanket exclusion. TWU also indicated that sessional faculty would not be required to sign the Statement of Faith. TWU also provided information in its response to demonstrate that attracting and retaining highly qualified faculty in other professional programs (i.e. Nursing, Business and Education) has never been of issue.

The expert panel provided information that law schools at religious universities such as Brigham Young University do not require faculty to sign statements of faith. TWU indicated that there are some in the US, but did not provide any examples.

S14

The Federation of Law Societies has recently established a Special Advisory Committee to consider TWU's application including the requirements for students and faculty of TWU to abide by TWU's Statement of Faith and Community Covenant agreement in relation to the *Canadian Charter of Rights and Freedoms*, and human rights legislation and the 2001 Supreme Court of Canada decision in *Trinity Western University v. British Columbia College of Teachers*.

S14

S14

\*\*\*\*\*

Dorothy Rogers  
Director  
Quality Assurance Unit, DQAB Secretariat  
Governance and Quality Assurance Branch  
Ministry of Advanced Education  
250-387-6298

## Speaking Bullets

- As you know, the TWU Law Degree proposal has undergone the quality assessment process and is now under review by the Ministry.
- I appreciate that to date this has been a lengthy process for TWU and I want to assure you that Ministry staff continue to work diligently on completing the review of the proposed Juris Doctor program.
- Once the Ministry has completed its review, the proposal will move forward to the Minister for decision.

## Background

TWU's Statement of Faith states: "the Bible is...to be believed in all that it teaches, obeyed in all that it requires, and trusted in all that it promises." All TWU faculty members must sign and adhere to the Statement of Faith by signing the following covenant: "I agree with the above Statement of Faith and agree to support that position at all times before the students and friends of Trinity Western University."

S13

Multiple letters have been sent to the Minister and Premier opposing the proposed law school and urging the government to deny approval to TWU arguing its practices having students and faculty sign a statement of faith and Community Covenant are contrary to social justice and equality<sup>1</sup>. Letters were also sent to the Federation of Law Societies of Canada from the Council of Canadian Law Deans, the Canadian Association of Law Teachers and the National Association of Women and the Law, urging the Federation to reject TWU's application. Students at a number of Canadian law schools joined the letter writing campaign to influence the Federation of Law Societies to bar TWU from opening a law school.

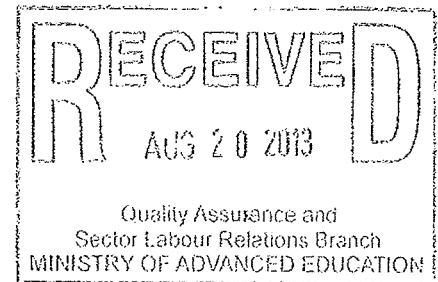
Several media reports beginning in 2012 and 2013 headlined the issue of the proposed law school in the *Globe and Mail*, the *Vancouver Sun* the *Canadian Journal of Women and the Law* and the CBC. In March 2013, an FOI request was made by the media for all reports, substantial correspondence (excluding the general public) and memos, briefing notes, and submissions sent about this proposed law school.

In 2008, the Canadian Association of University Teachers (CAUT) launched an inquiry into TWU's Mission Statement and its impact on initial hiring, continued employment (tenure), and academic freedom of that institution's faculty. In 2009, CAUT published a report that concluded that TWU violates the commitment to academic freedom by requiring faculty to sign a Statement of Faith and recommended that TWU be placed on the list of institutions published by CAUT that are "found to have imposed a requirement of a commitment to a particular ideology or statement as a condition of employment."

- student groups from at least nine Canadian law schools (Dalhousie, U of T, U of Western Ontario, U of Ottawa, U of Saskatchewan, UBC, U of A, UVic, York University) also launched a letter writing campaign to the Federation of Law Societies (approximately 1,000 letters received)
- The issue has also been in various media reports and editorial comments through:
  - the *Globe and Mail*
  - the *Vancouver Sun*
  - the *Tyee*
  - the *Canadian Journal of Women and the Law*
  - the *National Post*
  - *Maclean's*
  - the *Toronto Star*
  - the *Ottawa Citizen*
  - the *Montreal Gazette*
  - *Canadian Lawyer*
  - *Law Times*
  - *Academica*
  - *Reuters*
  - the *Huffington Post*
  - *Canadian Legal Ease*
  - the CBC (radio and television)
  - CTV News
  - the *Halifax Chronicle Herald*
  - the *Langley Times*
  - several Facebook pages and Twitter feeds (i.e., Let's Outlaw TWU)
  - Mr. Clayton Ruby – Toronto-based lawyer and human rights advocate
  - Mr. Bob Gallagher – co-founder of Canadians for Equal Marriage
  - Todd Pettigrew – Associate Professor, Cape Breton University
  - Ms. Elaine Craig – Professor of Law, Dalhousie University
  - Neil J. Foster – Professor, University of Newcastle, NSW, Australia
- In March 2013, an FOI request was made by the media for all reports, substantial correspondence (excluding the general public) and memos, briefing notes, and submissions sent about this proposed law school.
- The Federation of Law Societies of Canada has set up a special advisory committee to deal with the controversy. It has received more than 30 submissions from interested groups. The federation said that it will take applicable law into account, including the Canadian Charter of Rights and Freedoms.



THE CANADIAN  
BAR ASSOCIATION  
British Columbia Branch



August 14, 2013

Honourable Amrik Virk  
BC Minister of Advanced Education  
PO BOX 9080  
STN PROV GOVT  
VICTORIA, BC  
V8W 9E2

**Re: *Trinity Western University application for authority to grant a Juris Doctor (JD) degree***

Dear Minister Virk;

I am writing on behalf of the 6,700 members of the Canadian Bar Association (CBA) BC Branch to welcome you to your position as Minister of Advanced Education, and to provide you with copies of correspondence from the CBA related to a matter currently being considered within your Ministry.

Trinity Western University has applied to the Ministry of Advanced Education to be given the authority to grant a Juris Doctor (JD) degree. The Federation of Law Societies is concurrently considering whether a law degree as proposed by TWU would meet national standards for entry to law society licensing programs in Canadian provinces. The National CBA, as well as the National CBA Sexual Orientation and Gender Identity Conference (SOGIC) have identified concerns with TWU's application, and have written to express those concerns to the Federation of Law Societies. We thought it important that those concerns be shared with you as well, for consideration during your Ministry's process of evaluating the application.

Sincerely,

Kerry L. Simmons  
President  
The Canadian Bar Association – British Columbia Branch

cc: Vicki Simmons - Acting Director, Degree Quality Assessment Board Secretariat  
Dr. Jonathan S. Raymond – President, Trinity Western University



12

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**Burnett, Teresa M AEIT:EX**

**From:** Minister, AEIT AEIT:EX  
**Sent:** Monday, February 18, 2013 1:45 PM  
**To:** AEIT Ministerial Correspondence and Research Unit AEIT:EX  
**Subject:** INFO/FILE - FW: Trinity Western University's Proposed Law School  
**Attachments:** WCL Letter to Federation of Law Societies re TWU.pdf

**Categories:** Info/File, Minister

Info/file

Meghan

---

**From:** Yap.MLA, John [<mailto:John.Yap.MLA@leg.bc.ca>]  
**Sent:** Tuesday, February 5, 2013 12:12 PM  
**To:** Minister, AEIT AEIT:EX  
**Cc:** Ng, PoWah LASS:EX  
**Subject:** FW: Trinity Western University's Proposed Law School

---

**From:** Laura Track [<mailto:legal@westcoastleaf.org>]  
**Sent:** February-05-13 12:09 PM  
**To:** [grtremblay@mccarthy.ca](mailto:grtremblay@mccarthy.ca); [dwolfe@flsc.ca](mailto:dwolfe@flsc.ca); [jherman@flsc.ca](mailto:jherman@flsc.ca); [lpawlitza@torkinmanes.com](mailto:lpawlitza@torkinmanes.com)  
**Cc:** [w.flanagan@queensu.ca](mailto:w.flanagan@queensu.ca); Bond.MLA, Shirley; Yap.MLA, John; [president@twu.ca](mailto:president@twu.ca)  
**Subject:** Trinity Western University's Proposed Law School

Dear Sirs/Mesdames

Please find attached a letter from West Coast LEAF regarding Trinity Western University's proposed law school.

Regards,

Laura Track

Laura Track

Legal Director  
West Coast Women's Legal Education & Action Fund

555 - 409 Granville Street, Vancouver, BC V6C 1T2  
tel: 604.684.8772 ext.112 fax 604.684.1543 toll free in BC: 1.866.737.7716  
[www.westcoastleaf.org](http://www.westcoastleaf.org)

West Coast LEAF's mandate is to achieve equality by changing historic patterns of systemic discrimination against women through BC-based equality rights litigation, law reform and public legal education. Please invest in women's equality by making a tax-deductible donation at: [www.canadahelps.org](http://www.canadahelps.org)

*Although we do our best to keep up to date on legal developments, since the law changes so often, West Coast LEAF cannot guarantee the legal accuracy or completeness of the contents of this email. Any information provided is for general knowledge only. It is not meant to be used as legal advice for specific legal problems. If you need legal help, please contact a lawyer or advocate.*



Charitable Registration  
#119292464RR0001

WEST COAST LEGAL EDUCATION AND ACTION FUND (LEAF)  
555 - 409 GRANVILLE STREET  
VANCOUVER, B.C. V6C 1T2  
TEL: (604) 684-8772  
FAX: (604) 684-1543  
E-MAIL: [info@westcoastleaf.org](mailto:info@westcoastleaf.org)  
WEBSITE: [www.westcoastleaf.org](http://www.westcoastleaf.org)

February 5, 2013

Mr. Gérard R. Tremblay, C.M., O.Q., Q.C.,  
Ad. E.  
President, Federation of Canadian Law  
Societies  
[grtremblay@mccarthy.ca](mailto:grtremblay@mccarthy.ca)

Jonathan G. Herman  
Chief Executive Officer, Federation of  
Canadian Law Societies  
[jherman@flsc.ca](mailto:jherman@flsc.ca)

World Exchange Plaza  
1810 - 45 rue O'Connor St.  
Ottawa, Ont. K1P 1A4

Dear Sirs/Mesdames,

Re: Trinity Western University's Proposed Law School

The Federation of Law Societies of Canada (the Federation) has been asked to approve an application for a law degree program at Trinity Western University (TWU). We write to urge the Federation to reject the application due to TWU's discrimination against gays and lesbians in its hiring and admissions policies. These discriminatory policies make TWU unfit to prepare students for their role in upholding the rule of law and the human rights and equality principles that underlie our legal system in their careers as lawyers.

In the event that the BC government decides to accredit TWU to confer law degrees, it is our position that the Federation should not permit graduates to become licensed to practice law upon completion of their degree, bar exams and articles. At the very least, the Federation should require TWU law graduates to undertake additional study and meet entrance requirements set by the Federation's National Committee on Accreditation, similar to the process for foreign trained lawyers. The study and entrance requirements must be rigorous,

substantive and comprehensive in order to compensate for the shortcomings of a law program offered by an institution that unapologetically discriminates against gays and lesbians.<sup>1</sup>

### ***TWU's Discriminatory Policies***

TWU is a Christian university and describes itself as "an arm of the church." All students, faculty and staff are required to pledge "acceptance of the Bible as the divinely inspired, authoritative guide for personal and community life." The University's programs are established and implemented on the basis that scripture "must be the final and ultimate standard of truth, the reference point by which every other claim to truthfulness is measured." Academic faculty are required annually to sign a statement of faith, which requires them to "agree with and agree to support at all times the position" that the bible is "the ultimate authority by which every realm of human knowledge and endeavour should be judged."

All TWU students and staff must sign a "community code of conduct" pledging, among other things, not to engage in same-sex sexual intimacy. Applicants who do not make this pledge will not be hired or admitted to the University; breach of the pledge by those who do sign it can result in dismissal from the University.

The requirement that prospective students and staff must agree to abstain from same-sex sexual activity discriminates against gays and lesbians. The Supreme Court of Canada, which considered TWU's policies in a 2001 case challenging the University's ability to set up a teacher's college, found that the policies create "unfavourable differential treatment" on the basis of sexual orientation.<sup>2</sup> The majority of the Court found that "a homosexual student would not be tempted to apply for admission, and could only sign the so-called student contract at a considerable personal cost."<sup>3</sup> While the discriminatory policies were found not to be unlawful because of the religious exemption provided to the University by section 41 of the *BC Human Rights Code*, the Court held that if a public university or government actor adopted TWU's policies, it would violate the equality rights protected by human rights legislation and the *Canadian Charter of Rights and Freedoms*.

### ***The Federation's Role in Promoting the Public Interest, Professionalism and Ethics***

The Federation of Law Societies acts as the gatekeeper to the profession of law in Canada. Its mission is to act in the public interest by "promoting the cause of justice and the Rule of Law" in a manner that is "focused on the public interest", "responsible and accountable" and

<sup>1</sup> A comprehensive legal analysis supporting such a decision is provided by Professor Elaine Craig, "The case for the Federation of Law Societies rejecting Trinity Western University's proposed law degree program" (2013) 25(1) C.J.W.L.

<sup>2</sup> *Trinity Western University v. British Columbia College of Teachers*, [2001] 1 S.C.R. 772.

<sup>3</sup> *Ibid.* at para. 25.

"consistent with the highest standards of professionalism, excellence, ethics and good governance."<sup>4</sup>

The Federation is tasked with ensuring that all Canadian law schools comply with a national standard, which specifies the "competencies in basic skills, awareness of appropriate ethical values and core legal knowledge that law students can reasonably be expected to have acquired during the academic component of their education."<sup>5</sup>

In West Coast LEAF's submission, it is not in the public interest to train future lawyers in an institution governed by policies that discriminate on the basis of sexual orientation. To approve a law school with policies that would violate human rights law if implemented by any of Canada's other law schools does not advance the Federation's mission of "promoting the cause of justice and the Rule of Law". In our view, it would be incompatible with the Federation's mandate to act in the public interest and pursue the highest standards of professionalism and ethics for it to approve a TWU law degree.

The Federation's national standard states that "ethics and professionalism lie at the core of the legal profession," and the Federation "places particular emphasis on the need for law school graduates who seek entry to law society admission programs to have an understanding of ethics and professionalism."<sup>6</sup> As part of its ethics and professionalism requirements, the Federation requires students to demonstrate "an awareness and understanding of the ethical dimensions of the practice of law in Canada and an ability to identify and address ethical dilemmas in a legal context", which includes "an ability to identify and engage in critical thinking about ethical issues in legal practice".<sup>7</sup>

One of the ethical and professional duties of Canadian lawyers is the duty not to discriminate. The Federation's Model Code of Conduct states that "A lawyer must not discriminate against any person," and emphasizes that "A lawyer has a special responsibility to respect the requirements of human rights laws in force in Canada, its provinces and territories and, specifically, to honour the obligations enumerated in human rights laws."<sup>8</sup> In our submission, a law school with policies that exclude gays and lesbians and, in the words of the Supreme Court of Canada, create "unfavourable differential treatment" on the basis of sexual orientation cannot impart on prospective lawyers a sufficient understanding of the ethical duty not to discriminate and to honour the obligations enumerated in human rights laws.

<sup>4</sup> Federation of Law Societies of Canada, Mission and Values Statement, online: <<http://www.flsc.ca/en/our-mission/>>.

<sup>5</sup> Federation of Law Societies of Canada, *Task Force on the Canadian Common Law Degree: Final Report*, (October 2009), online: <[http://www.flsc.ca/\\_documents/Common-Law-Degree-Report-C.pdf](http://www.flsc.ca/_documents/Common-Law-Degree-Report-C.pdf)>.

<sup>6</sup> Federation of Law Societies of Canada, *Common Law Degree Implementation Committee: Final Report* (August 2011) at 15, online: <[http://www.flsc.ca/\\_documents/Implementation-Report-ECC-Aug-2011-R.pdf](http://www.flsc.ca/_documents/Implementation-Report-ECC-Aug-2011-R.pdf)>.

<sup>7</sup> Ibid.

<sup>8</sup> Federation of Law Societies of Canada, *Model Code of Professional Conduct* (as amended 12 December 2012), rule 6.3-5 at 100, online: <[http://www.flsc.ca/\\_documents/ModelCodeRevDec2012TDBL.pdf](http://www.flsc.ca/_documents/ModelCodeRevDec2012TDBL.pdf)>.

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The *Charter*, as well as human rights legislation in every Canadian province, prohibits discrimination on the basis of sexual orientation. Equality, specifically protected by sections 15 and 28 of the *Charter*, underlies all of the *Charter's* rights protections and is a fundamental component of the rule of law. The Federation's decision whether to approve a law degree from TWU must be consistent with *Charter* values. In West Coast LEAF's view, a proper balancing of the right to freedom of religion, the right to equality, and the Federation's mandate to protect the public interest demands that the Federation reject TWU's application and, at the very least, mandate rigorous additional study and entrance requirements for prospective TWU law school graduates.

Thank-you for considering our submission. We would be pleased to discuss this issue further, if that would be helpful.

Yours truly,



Laura Track  
Legal Director

Cc:  
Bill Flanagan, President, Council of Canadian Law Deans  
[w.flanagan@queensu.ca](mailto:w.flanagan@queensu.ca)

Premier Christy Clark  
[premier@gov.bc.ca](mailto:premier@gov.bc.ca)

Hon. Shirley Bond, Minister of Justice and Attorney General of BC  
[shirley.bond.mla@leg.bc.ca](mailto:shirley.bond.mla@leg.bc.ca)

Hon. John Yap, Minister of Advanced Education, Innovation, Technology and Multiculturalism for BC  
[john.yap.mla@leg.bc.ca](mailto:john.yap.mla@leg.bc.ca)

Jonathan Raymond, President, Trinity Western University  
[president@twu.ca](mailto:president@twu.ca)

<sup>1</sup> *Journal of the American Statistical Association*, 1997, 92, 1029-1042.

21. *Journal of the American Statistical Association*, 93(443), 1032-1041.

not a standard for entry to law societies in other jurisdictions in Canada. With the increased mobility of lawyers in this country, the development and application of national requirements is vital for cross-border consistency in knowledge, skills, abilities and ethics.

We have reviewed your December 4, 2012 response to a November 20, 2012 letter from the Council of Christian Law Students. Trinity's student's application and the university's discriminatory treatment of lesbian, gay, bisexual, transgender and transgender (LGBT) students. We question the presence of limitations on the Council's role in addressing the National Merit and appreciate your response.

$$x^2 + y^2 + z^2 = 1 \quad \text{and} \quad x^2 + y^2 + z^2 = 1 \quad \text{and} \quad x^2 + y^2 + z^2 = 1$$

Justice, as a criterion, in the Supreme Court of Canada in *Trinity Western University v. British Columbia Teachers' Federation*, the Federal government of British Columbia stipulated that a religious institution must go beyond "a mere possession of religious knowledge" and take into account alternative structures of belief. In fact, just a year ago, the Supreme Court decided in *Three Bannocks v. The Queen* that the same state "must act consistently with the values underlying the great objective, including Charter values,"<sup>6</sup> see other nine structuralist court makers who are developing a global, a

Based on the delegations of power to the relevant law-governors, the E.C. decision has not only the power, but the duty, to proceed with the termination of a proposed law should compliance with the National Standards be found inconsistent with the constitution and its program compliance with Canadian law, as stated by the participants attached to the *Canadian Charter of Rights and Freedoms* and the human rights legislation in B.C. and in the provinces and territories. A proposed law diverging may be recognized by the court as being in the proposed use of a law to the Charter.

On the other hand, the 2001 Supreme Court decision in *Thornburg v. Gingles* (1996) appears to rely on the ability of minority citizens to elect to GTE students. Although a majority of the circuit courts that interpret *Thornburg* (and, therefore, are not bound to do so) in the present case have taken the minority view, the federal circuit courts have taken the majority and proper interpretation of the personal characteristics of the German rights population. Further, the U.S. Supreme Court has not directly applied the *Gingles* test to the situation of German rights students in Germany. Therefore, the circuit courts have been able to take the majority view in this respect. Finally, recent Supreme Court jurisprudence does not indicate a high degree of deference to administrative agencies in the review of public interest and anti-discrimination cases.

#### B. Trinity Western's Discriminatory Rules and Practices

1978年12月10日，在日内瓦举行的联合国人权会议上，签署了《世界人权宣言》。该宣言是国际人权法的基础，也是联合国宪章的重要组成部分。

The Covenant is meant to apply in all circumstances and situations may lead to disciplinary actions, including dismissal in the case of faculty and staff and removal in the case of students.

The fact that no student may ever be expelled for breaching the Covenant's sexual intimacy rules is not determinative. As acknowledged by the Supreme Court of Canada in *Meiorin v. A. 8232*,<sup>11</sup> the



Pursuant to the *Trinity Western University Act*,<sup>19</sup> it is recognized as a Christian institution affiliated with the Evangelical Free Church of Canada. Yet the university does not purport to have "as a primary purpose, the promotion of the interests and welfare of a identifiable group of persons," nor to exclude individuals who do not share its religious beliefs. On the contrary, under its previous mandate, it must welcome students of all faiths. Subsection 5(1) of the Act, as amended, provides:

(3) The objects of the University shall be to provide for young people of any race, colour, or creed university education in the area of a concern with an underlying philosophy and viewpoint that is Christian [Emphasis added].

It appears that the B.C. legislature has not authorized the institution to grant "to private citizens members" of any particular church or religion or to individuals who hold beliefs similar to those of the Evangelical Free Church of Canada, but rather has specified that its public mandate must be extended to be inclusive of people of *all* races and creeds. This does include individuals who do not share Trinity Western's view on sexual identity, let alone members of the LGBT community. One is hard pressed to see how purporting to exclude LGBT students, or force them to conceal their true identity, could amount to an objectively justifiable purpose rationally connected to Trinity Western's educational mandate. In respect of what school would know:

**D. Following these recommendations would not hamper freedom of religion**

Some, including the British Columbia Civil Liberties Association, have argued that dropping Trinity Western's application would infringe the freedom of religion and freedom of association of the school's students.<sup>20</sup> We respectfully disagree.

As *Meiorin* notes in the Supreme Court of Canada in *Meiorin v. British Columbia (Superintendent of Motor Vehicles)*,<sup>21</sup> the freedom of religion is only infringed where "(1) the claimant sincerely holds a belief or practice that has a religious or spiritual aspect and (2) the government action interferes with the claimant's ability to act in accordance with his or her religious belief."<sup>22</sup> The interference must be serious as to "[t]he claimant's religious or spiritual beliefs."<sup>23</sup>

Although we do not see the sincerity of the religious beliefs of those forming the Institute Western community, as a school that is removing or modifying the school's Code, student and other rules,

and eventually due to the Supreme Court of Canada in *Meiorin v. British Columbia (Superintendent of Motor Vehicles)*,<sup>24</sup> the freedom of religion is only infringed where "(1) the claimant sincerely holds a belief or practice that has a religious or spiritual aspect and (2) the government action interferes with the claimant's ability to act in accordance with his or her religious belief."<sup>25</sup> The interference must be serious as to "[t]he claimant's religious or spiritual beliefs."<sup>26</sup>

Although we do not see the sincerity of the religious beliefs of those forming the Trinity Western community, as a school that is removing or modifying the school's Code, student and other rules, and eventually due to the Supreme Court of Canada in *Meiorin v. British Columbia (Superintendent of Motor Vehicles)*,<sup>27</sup> the freedom of religion is only infringed where "(1) the claimant sincerely holds a belief or practice that has a religious or spiritual aspect and (2) the government action interferes with the claimant's ability to act in accordance with his or her religious belief."<sup>28</sup> The interference must be serious as to "[t]he claimant's religious or spiritual beliefs."<sup>29</sup>

19. *Trinity Western University Act*, R.S.B.C. 1996, c. 249, s. 5(1). The Act was amended in 1997 to read: "The objects of the University shall be to provide for young people of any race, colour, or creed university education in the area of a concern with an underlying philosophy and viewpoint that is Christian [Emphasis added]."

20. *Id.*, at para. 41.

21. [1999] 3 S.C.R. 3, 2000 FC 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1015, 1016, 1017, 1018, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1027, 1028, 1029, 1030, 1031, 1032, 1033, 1034, 1035, 1036, 1037, 1038, 1039, 1040, 1041, 1042, 1043, 1044, 1045, 1046, 1047, 1048, 1049, 1050, 1051, 1052, 1053, 1054, 1055, 1056, 1057, 1058, 1059, 1060, 1061, 1062, 1063, 1064, 1065, 1066, 1067, 1068, 1069, 1070, 1071, 1072, 1073, 1074, 1075, 1076, 1077, 1078, 1079, 1080, 1081, 1082, 1083, 1084, 1085, 1086, 1087, 1088, 1089, 1090, 1091, 1092, 1093, 1094, 1095, 1096, 1097, 1098, 1099, 1100, 1101, 1102, 1103, 1104, 1105, 1106, 1107, 1108, 1109, 1110, 1111, 1112, 1113, 1114, 1115, 1116, 1117, 1118, 1119, 1120, 1121, 1122, 1123, 1124, 1125, 1126, 1127, 1128, 1129, 1130, 1131, 1132, 1133, 1134, 1135, 1136, 1137, 1138, 1139, 1140, 1141, 1142, 1143, 1144, 1145, 1146, 1147, 1148, 1149, 1150, 1151, 1152, 1153, 1154, 1155, 1156, 1157, 1158, 1159, 1160, 1161, 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2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 2679, 2680, 2681, 2682, 2683, 2684, 2685, 2686, 2687, 2688, 2689, 2690, 2691, 2692, 2693, 2694, 2695, 2696, 2697, 2698, 2699, 2700, 2701, 2702, 2703, 2704, 2705, 2706, 2707, 2708, 2709, 2710, 2711, 2712, 2713, 2714, 2715, 2716, 2717, 2718, 2719, 2720, 2721, 2722, 2723, 2724, 2725, 2726, 2727, 2728, 2729, 2730, 2731, 2732, 2733, 2734, 2735, 2736, 2737, 2738, 2739, 2740, 2741, 2742, 2743, 2744, 2745, 2746, 2747, 2748, 2749, 2750, 2751, 2752, 2753, 2754, 2755, 2756, 2757, 2758, 2759, 2760, 2761, 2762, 2763, 2764, 2765, 2766, 2767, 2768, 2769, 2770, 2771, 2772, 2773, 2774, 2775, 2776, 2777, 2778, 2779, 2780, 2781, 2782, 2783, 2784, 2785, 2786, 2787, 2788, 2789, 2790, 2791, 2792, 2793, 2794, 2795, 2796, 2797, 2798, 2799, 2800, 2801, 2802, 2803, 2804, 2805, 2806, 2807, 2808, 2809, 2810, 2811, 2812, 2813, 2814, 2815, 2816, 2817, 2818, 2819, 2820, 2821, 2822, 2823, 2824, 2825, 2826, 2827, 2828, 2829, 2830, 2831, 2832, 2833,







Conseil canadien de la magistrature  
Canadian Judicial Council  
1300 100 Avenue du Centre  
Ottawa, Ontario K1P 1K1

SP-1-11-0001  
11-0001-11-0001  
11-0001-11-0001

November 29, 2012

Mr. John J.L. Hunter, Q.C. and Mr. Gerald R. Tremblay, C.M., O.C., Q.C.,  
President  
Federation of Canadian Law Societies  
1000 Exchange Plaza  
1810 - 45, rue King Street  
Ottawa, Ontario  
K1P 1A8

Dear Mr. Hunter and Mr. Tremblay,

Re: Faculty Welfare University School of Law Program

On behalf of the Canadian Judicial Council, I would like to thank you and your colleagues from the Federation for taking the time to meet with us on November 8, 9 and 10, 2012. It was an excellent opportunity to discuss a number of matters of mutual interest to the CCJ/C and the Faculty, including the accreditation process for the Canadian Judicial Council program.

At our meeting, the CCJ/C expressed its concerns with respect to the application by the Faculty to the University of Ottawa to extend a law school. It is our understanding that the Faculty is currently considering the application. We thought it would be useful to discuss with a formal letter to you our concerns.

As you know, all law students are required to sign a community service agreement which forms part of the application process for all students attending UOttawa.

Under the Faculty's agreement, the community service agreement is a condition of admission.

Among other things, the agreement requires that a student "from a suitable family that values the traditions of marriage between a man and a woman." There are also formal statements by the student to address actions by community members that represent a danger to the community. The UOttawa student agreement provides that if a student, on the opinion of the community, refuses or fails to live up to the commitment, the University reserves the right to discipline, dismiss, or refuse a student's re-enrollment to the University.

There is a risk that the community will not be able to live up to the commitment. It is our understanding that the Faculty is currently considering the application. We thought it would be useful to discuss with a formal letter to you our concerns.

We would like to see the Faculty to modify the agreement to reflect the community's concerns. We would also like to see the Faculty to modify the agreement to reflect the community's concerns. We would also like to see the Faculty to modify the agreement to reflect the community's concerns.

Yours truly,

*John J.L. Hunter*


John J.L. Hunter  
President of the Canadian Judicial Council  
Council of Law

cc: Jonathan S. Gauthier, President, Faculty of Law, University of Ottawa



Council of Canadian Law Deans  
Conseil des doyens et  
des doyennes des facultés  
de droit du Canada

22

This is Exhibit "B" referred to in  
the affidavit of Anne Macaulay  
sworn before me at Vancouver, BC  
this 20 day of August 2014  
  
A Commissioner for taking Affidavits  
for British Columbia

57 Louis Pasteur  
Ottawa ON K1N 5N5  
[www.cclc-cdfdc.ca](http://www.cclc-cdfdc.ca)

November 20, 2012

Mr. John J.L. Hunter, Q.C. and Mr. Gérald R. Tremblay, C.M., O.Q., Q.C.,  
President  
Federation of Canadian Law Societies  
World Exchange Plaza  
1810 - 45, rue O'Connor Street  
Ottawa, Ontario  
K1P 1A4

Dear Mr. Hunter and Mr. Tremblay,

Re: Trinity Western University School of Law Proposal

On behalf of the Canadian Council of Law Deans, I would like to thank you and your colleagues from the Federation for taking the time to meet with us at our meeting in Kingston on November 9, 2012. It was an excellent opportunity to discuss a number of matters of mutual interest to the CCLD and the Federation, including the accreditation process for the Canadian common law degree programs.

At our meeting, the CCLD expressed its concern with respect to the application by Trinity Western University (TWU) to establish a law school. It is our understanding that the Federation is currently considering this application. We thought it would be helpful to follow up with a formal letter to you outlining our concerns.

As you know, all TWU students are required to sign a "community covenant agreement" which forms part of the application process for all students attending TWU:

<http://twu.ca/studenthandbook/university-policies/community-covenant-agreement.html>

Among other things, the covenant requires abstinence "from sexual intimacy that violates the sacredness of marriage between a man and a woman." There are also "formal accountability procedures to address actions by community members that represent a disregard for this covenant." The TWU Student Handbook provides that if "a student, in the opinion of the University, is unable, refuses or fails to live up to their commitment, the University reserves the right to discipline, dismiss, or refuse a student's re-admission to the University."

The covenant specifically contemplates that gay, lesbian or bisexual students may be subject to disciplinary measures including expulsion. This is a matter of great concern for all the members of the CCLD. Discrimination on the basis of sexual orientation is unlawful in Canada and fundamentally at odds with the core values of all Canadian law schools.

We would urge the Federation to investigate whether TWU's covenant is inconsistent with federal or provincial law. We would also urge the Federation to consider this covenant and its intentionally discriminatory impact on gay, lesbian and bi-sexual students when evaluating TWU's application to establish an approved common law program.

Yours truly,



Bill Flanagan  
President of the Canadian Council of Law Deans  
Dean of Law

cc: Jonathan S. Raymond, Ph.D., Trinity Western University



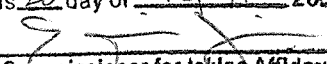
National Association of Women and the Law / L'association Nationale Femmes et Droit

[www.nawl.ca](http://www.nawl.ca) / [www.anfd.ca](http://www.anfd.ca)

rue 2339 Ogilvie Road – PO Box 46008

Gloucester, ON

K1J 9M7

This is Exhibit "C" referred to  
the affidavit of Anne Macan  
sworn before me at Vancouver  
this 26 day of August 2013  
  
A Commissioner for taking Affidavits  
for British Columbia

March 8, 2013

Mr. Gérard R. Tremblay, C.M., O.Q., Q.C.  
Ad.E.

President, Federation of Canadian Law  
Societies

By email: [grtremblay@mccarthy.ca](mailto:grtremblay@mccarthy.ca)

Jonathan G. Herman

Chief Executive Officer

Federation of Canadian Law Societies

By email: [jherman@flsc.ca](mailto:jherman@flsc.ca)

Deborah Wolfe, P. Eng.

Managing Director, National Committee on  
Accreditation

Director, Law School Programs, Federation  
Of Canadian Law Societies

By email: [dwolfe@flsc.ca](mailto:dwolfe@flsc.ca)

Laurie H. Pawlitza

Chair, Federation of Canadian Law

Law Societies Canadian Common Law

Program Approval Committee

By email: [lpawlitza@torkinmanes.com](mailto:lpawlitza@torkinmanes.com)

Dear Sirs/Mesdames,

**Re: Trinity Western University School of Law Proposal**

The National Association of Women and the Law ("NAWL") is an incorporated not-for-profit feminist organization that promotes the equality rights of Canadian women through legal education, research and law reform advocacy. We write in relation to Trinity Western University ("TWU")'s proposal to establish a School of Law.

NAWL shares the concern expressed by the Canadian Council of Law Deans and others regarding the intentionally discriminatory impact of TWU's "community covenant agreement" on gay, lesbian and bisexual students. As you are aware, all TWU students and staff are required to sign this covenant, which requires, among other things, abstinence "from sexual intimacy that violates the sacredness of marriage between a man or a woman." As noted in an editorial in the *Globe and Mail*: "[t]his covenant is not simply an expression of belief or a request for certain behaviour...[but] is in effect a bar to gay and lesbian students who are married."<sup>1</sup>

Since the introduction of the *Canadian Charter of Rights and Freedoms*, equality has come to be recognized, not only as a fundamental constitutional right, but as an overarching value in Canadian society. The meaningful realization of this value is something that we continue to struggle to achieve. As the Honourable Justice L'Heureux-Dubé observed close to fifteen years ago: "The task of rooting out inequality and injustice from our society is now advancing to a higher stage...[which requires] that we understand equality and make it part of our thinking, rather than treading heavily on it with the well-worn shoes of unquestioned, and often stereotypical assumptions."<sup>2</sup>

<sup>1</sup> "No gay free law school should stand in Canada" *The Globe and Mail*, 7 February 2013, online: <http://www.theglobeandmail.com/commentary/editorials/no-gay-free-law-school-should-stand-in-canada/article8356107/>.

<sup>2</sup> Honourable Claire L'Heureux-Dubé, "Conversations on Equality" (1999) 26 Man L J 273 at 278-279.

Lawyers have unique powers and obligations in relation to our ongoing struggle to achieve meaningful substantive equality in Canada. As the Federation of Law Societies of Canada's own Model Code of Conduct emphasizes, lawyers have "a special responsibility to respect the requirements of human rights laws in force in Canada, its provinces and territories and, specifically, to honour the obligations enumerated in human rights laws" as well as an obligation not to "discriminate against any person."<sup>3</sup>

A proposal for a "gay free" law school is clearly discriminatory. It is also antithetical to training the next generation of lawyers to live up to their role as guardians of the public interest, which includes protecting and respecting the equality rights of Canadians. It is not sufficient that lawyers simply know where to locate equality protection in various constitutional and statutory instruments; it is necessary, to borrow Justice L'Heureux-Dubé's words, that they "understand equality and make it part of [their] thinking." An educational institution that not only perpetuates discriminatory attitudes towards, but also effectively bans members of an equality-seeking group from attendance, cannot be trusted to promote this constitutionally mandated understanding.

For these reasons, NAWL joins West Coast LEAF in urging the Federation to reject TWU's application. In the event that the British Columbia government decides to accredit TWU to confer law degrees, notwithstanding the equality rights infringement such a decision would represent, NAWL also joins West Coast LEAF in insisting that the Federation should not permit graduates to become licensed to practice law without further study and entrance requirements.

The following passage from the Supreme Court of Canada in *Vriend v. Alberta* is particularly resonant in these circumstances:

It is easy to praise [the concept and principle of equality] as providing the foundation for a just society which permits every individual to live in dignity and in harmony with all. The difficulty lies in giving real effect to equality. Difficult as the goal of equality may be it is worth the arduous struggle to attain.<sup>4</sup>

The Federation has proudly and repeatedly announced that it has a mandate to serve in the public interest. We believe that taking a forceful and pro-active stance against TWU's proposal for a School of Law is not only consistent with this mandate, but is also required.

Yours truly,

JULIE SHUGARMAN  
Executive Director  
National Association of Women and the Law  
613.612.5859  
[www.nawl.ca](http://www.nawl.ca)

<sup>3</sup> Federation of Law Societies of Canada, *Model Code of Professional Conduct* (as amended 12 December 2012), rule 6.3-5, online: <http://www.flsc.ca/en/federation-model-code-of-professional-conduct/>

<sup>4</sup> *Vriend v. Alberta*, [1998] 1 SCR 493 at para 68.

cc:

Bill Flanagan, President, Council of Canadian Law Deans  
[w.flanagan@queensu.ca](mailto:w.flanagan@queensu.ca)

Premier Christy Clark  
[premier@gov.bc.ca](mailto:premier@gov.bc.ca)

Hon. Shirley Bond, Minister of Justice and Attorney General of BC  
[shirley.bond.mla@leg.bc.ca](mailto:shirley.bond.mla@leg.bc.ca)

Hon. John Yap, Minister of Advanced Education, Innovation, Technology and Multiculturalism  
for BC  
[john.yap.mla@leg.bc.ca](mailto:john.yap.mla@leg.bc.ca)

Jonathan Raymond, President, Trinity Western University  
[president@twu.ca](mailto:president@twu.ca)

Laura Track, Legal Director  
West Coast Leaf



THE CANADIAN BAR ASSOCIATION  
L'ASSOCIATION DU BARREAU CANADIEN

Office of the President  
Cabinet du président

March 18, 2013

Via email: gtr Tremblay@mccarthy.ca

Mr. Gérald R. Tremblay, C.M., O.Q., Q.C., Ad.E.  
President  
Federation of the Law Societies of Canada  
World Exchange Plaza  
1810-45 O'Connor Street  
Ottawa, ON K1P 1A4

Dear Mr. Tremblay:

**Re: Trinity Western University School of Law Proposal**

I write on behalf of the Canadian Bar Association concerning the application of Trinity Western University for an assessment of whether its proposed law degree meets the Federation's national standards for approving new law degree programs.

The CBA is a national association representing approximately 37,000 jurists, including lawyers, notaries, law teachers and students across Canada, with a mandate that includes seeking improvements in the law and the administration of justice, and promoting equality in the law and in the legal profession.

We support the role of the Federation in determining whether new law degree programs meet national standards for entry to law society licensing programs across Canada. With the increased mobility of lawyers in this country, the development and application of national requirements is critical for cross-border consistency in knowledge, skills, abilities and ethics.

We commend the Federation for its consultations and deliberations in establishing the national standards. In assessing an applicant's compliance with these standards, the Federation is able to:

- a) In its discretion, entertain submissions from persons, organizations, or institutions other than applicants;
- b) Make additional inquiries with the applicant and request such additional written information as it sees fit; and
- c) Control its own process in considering applications for new law degree programs.<sup>1</sup>

<sup>1</sup> See the *Final Report of the Task Force on the Canadian Common Law Degree*, Federation of Law Societies of Canada (October 2009), online: <http://www.flsc.ca/documents/Common-Law-Degree->

27

This is Exhibit D referred to in  
the affidavit of Anne Macaulay  
sworn before me at Vancouver  
this 28 day of August 2014  
[Signature]  
A Commissioner for taking Affidavits  
for British Columbia



We have had an opportunity to review the letter from the Council of Canadian Law Deans and your response. We question the perceived limitations on the Federation's role in applying the national standards, and urge you to reconsider your stance in pursuit of the law societies' duty to regulate the legal profession in the public interest.

In our view, the Federation and the Committee charged with approving new Canadian law degree programs must strike a balance between freedom of religion and equality, and give full consideration to its public interest mandate and to the values embodied in Canadian human rights laws.

Based on the delegations of power from its constituent law societies, the Federation has a duty to go beyond a strict determination of a proposed law school's compliance with the national standards. It must assess whether the institution and its program complies with Canadian law, including the protections afforded by the *Canadian Charter of Rights and Freedoms* and the human rights legislation in B.C., and in every province and territory where a proposed law degree may be recognized by the law societies for admission to bar.

We ask the Federation and the Committee to give due consideration to these concerns when assessing Trinity Western's application.

These are complex issues. Indeed, CBA members hold a range of views on the question of the approval of this particular law school. The CBA's Sexual Orientation and Gender Identity Conference (SOGIC) and Equality Committee have articulated one perspective in the attached letter.

The CBA would be pleased to assist in whatever way you believe would be appropriate.

Yours truly,



Robert C. Brun, Q.C.

cc : See Appendix A



THE CANADIAN  
BAR ASSOCIATION  
L'ASSOCIATION DU  
BARREAU CANADIEN

29

March 18, 2013

Via email: grtremblay@mccarthy.ca

Mr. Gérald R. Tremblay, C.M., O.Q., Q.C., Ad.E.  
President  
Federation of the Law Societies of Canada  
World Exchange Plaza  
1810-45 O'Connor Street  
Ottawa, ON K1P 1A4

Dear Mr. Tremblay:

**Re: Trinity Western University School of Law Proposal**

We write on behalf of the Sexual Orientation and Gender Identity Conference (SOGIC) and the Equality Committee of the Canadian Bar Association concerning the application of Trinity Western University for an assessment of whether its proposed law degree meets the Federation's National Standards for Approving New Law Degree Programs.

The CBA is a national association representing approximately 37,000 jurists, including lawyers, notaries, law teachers and students across Canada, with a mandate that includes seeking improvements in the law and the administration of justice, and promoting equality in the law and the legal profession. SOGIC provides a forum for the exchange of information, ideas and action on legal issues relating to sexual orientation and gender identity. The Equality Committee is dedicated to achieving equality in the legal profession.

We support the role of the Federation in determining whether new law degree programs meet national standards for entry to law society licensing programs across Canada. With the increased mobility of lawyers in this country, the development and application of national requirements is critical for cross-border consistency in knowledge, skills, abilities and ethics.

**A. SOGIC and the Equality Committee's Concerns**

We have reviewed your December 4, 2012 response to a November 20, 2012 letter from the Council of Canadian Law Deans on Trinity Western's application and the university's discriminatory treatment of lesbian, gay, bisexual, transsexual and transgender (**LGBT**) students. We question the perceived limitations on the Federation's role in enforcing the National Standards and approving new law degrees.

Even on a strict reading of the National Standards, Trinity Western's application raises concerns, in particular for the National Standards' ethical, constitutional and human rights components, as will be explained in greater detail below.

Moreover, as determined by the Supreme Court of Canada in *Trinity Western University v. College of Teachers*,<sup>1</sup> the Federation's assessment of Trinity Western's application must go beyond "a determination of skills and knowledge" and take into account a broader range of factors.<sup>2</sup> Indeed, just a year ago, the Supreme Court reiterated in *Doré v. Barreau du Québec*<sup>3</sup> that law societies "must act consistently with the values underlying the grant of discretion, including Charter values,"<sup>4</sup> like other administrative decision-makers exercising delegated authority,

Based on the delegations of power from its constituent law societies, the Federation has not only the power, but the duty to go beyond a strict determination of a proposed law school's compliance with the National Standards. It must assess whether the institution and its program complies with Canadian law, including the protections afforded by the *Canadian Charter of Rights and Freedoms* and the human rights legislation in B.C., and in every province and territory where a proposed law degree may be recognized by the law societies for the purpose of admission to the local bar.

We therefore ask the Federation and its members to give due consideration to these concerns when assessing Trinity Western's application.

One word at the outset on the 2001 Supreme Court decision in *TWU*, which Trinity Western appears to rely on to justify discriminatory treatment of LGBTT students. Although a majority of the judges in that case found in Trinity Western's favour, their analysis was limited to B.C. law. In the present case, given the national scope of its mandate, the Federation must consider the proposed program's compliance with other provincial and territorial human rights legislation. Further, the B.C. College of Teachers "was not directly applying either the *Charter* or the province's human rights legislation when making its decision,"<sup>5</sup> *Doré* now imposes that obligation on law societies. Finally, recent Supreme Court jurisprudence demonstrates a higher degree of deference to administrative decision-makers when dealing with *Charter* and human rights issues.<sup>6</sup>

As a result, were the Federation to follow the proposals found in our letter's conclusions, its decision would most likely be subject to a lower level of scrutiny than was that of the B.C. College of Teachers at the time. Coupled with the increased recognition of same-sex relationships in Canadian law and society, and the fact that teaching future lawyers may call for the application of different norms in terms of ethics and basic respect for human rights, we submit that a another result could be expected in the present case.

## B. Trinity Western's Discriminatory Rules and Practices

As a condition of employment with the university as well as admission into one of its programs, Trinity Western requires students, faculty and staff to sign its Community Covenant Agreement.<sup>7</sup> The Covenant notably proscribes "sexual intimacy", except between married, opposite-sex spouses,

<sup>1</sup> [2001] 1 S.C.R. 772 (*TWU*). In that case, the Supreme Court weighed in on the B.C. College of Teachers' refusal to recognize Trinity Western's teacher education program.

<sup>2</sup> *Ibid.*, at para 13. For a detailed legal analysis of this question, see: Professor Elaine Craig, "The Case for the Federation of Law Societies Rejecting Trinity Western University's Application for Approval of a New Law School Program", *Canadian Journal of Women and the Law*, vol. 25(1) (2013).

<sup>3</sup> [2012] 1 S.C.R. 395 (*Doré*).

<sup>4</sup> *Ibid.*, at para 24.

<sup>5</sup> *TWU*, *supra* note 2, at para 27.

<sup>6</sup> See in particular *Doré*, *supra* note 4.

<sup>7</sup> See Trinity Western's Student Handbook, online: <http://twu.ca/studenthandbook/university-policies/community-covenant.html>.

and numerous footnotes to the Covenant's rules on sexual intimacy refer to biblical passages interpreted by some as prohibiting sexual intercourse between members of the same gender.<sup>8</sup>

The Covenant is meant to apply on and off campus and violations may lead to disciplinary sanctions, including dismissal in the case of faculty and staff and removal in the case of students.<sup>9</sup>

The fact that no student may ever be expelled for breaching the Covenant's sexual intimacy rules is not determinative. As acknowledged by the Supreme Court of Canada in *Vriend v. Alberta*,<sup>10</sup> the mere fear of discrimination may in and of itself cause serious psychological harm: "Fear of discrimination will logically lead to concealment of true identity and this must be harmful to personal confidence and self-esteem. [...] The potential harm to the dignity and perceived worth of gay and lesbian individuals constitutes a particularly cruel form of discrimination."<sup>11</sup>

The same may be said of the fact that the Covenant purportedly targets sexual behaviour as opposed to sexual orientation. As Justice L'Heureux-Dubé wrote in her dissenting opinion in *TWU*, which was just endorsed by a unanimous Court in *Saskatchewan (Human Rights Commission) v. Whatcott*:<sup>12</sup>

I am dismayed that at various points in the history of this case the argument has been made that one can separate condemnation of the "sexual sin" of "homosexual behaviour" from intolerance of those with homosexual or bisexual orientations. This position alleges that one can love the sinner, but condemn the sin. ... The status/conduct or identity/practice distinction for homosexuals and bisexuals should be soundly rejected [...] [Emphasis added]<sup>13</sup>

### C. Trinity Western Covenant Incompatible with Human Rights Legislation

As a private institution, Trinity Western is not subject to the *Charter*. Trinity Western's President Dr. Jonathan S. Raymond claimed in a recent interview that the issue of the Covenant's conformity with the B.C. *Human Rights Code*<sup>14</sup> has been resolved since the 2001 Supreme Court of Canada decision of *TWU*,<sup>15</sup> based on s. 41(1) of the *BCHRC*. That provision reads as follows:

41 (1) If a charitable, philanthropic, educational, fraternal, religious or social organization or corporation that is not operated for profit has as a primary purpose the promotion of the interests and welfare of an identifiable group or class of persons characterized by a physical or mental disability or by a common race, religion, age, sex, marital status, political belief, colour, ancestry or place of origin, that organization or corporation must not be considered to be contravening this Code because it is granting a preference to members of the identifiable group or class of persons. [Emphasis added]

<sup>8</sup> Community Covenant Agreement, online: <http://twu.ca/studenthandbook/student-handbook-2012-2013.pdf>, pp. 19-23.

<sup>9</sup> *Id.* As outlined in the Student Handbook, "[i]f a student, in the opinion of the University, is unable, refuses or fails to live up to their commitment, the University reserves the right to discipline, dismiss, or refuse a student's re-admission to the University" (p. 23).

<sup>10</sup> [1998] 1 S.C.R. 493 (*Vriend*).

<sup>11</sup> *Ibid.*, at para 102 [emphasis added].

<sup>12</sup> 2013 SCC 11 (*Whatcott*).

<sup>13</sup> *Ibid.*, at para 123, citing *TWU*, *supra* note 2, para 69.

<sup>14</sup> RSBC 1996, c. 210 (*BCHRC*). See *TWU*, *supra* note 2, at paras 13 and 35.

<sup>15</sup> See Sarah Boesveld, "Canadian deans accused of 'anti-religious bias' over attempt to block Christian law school", in *National Post*, January 18, 2013 edition, online: <http://life.nationalpost.com/2013/01/18/canadian-deans-accused-of-anti-religious-bias-over-attempt-to-block-christian-law-school/>.

The legality of Trinity Western's Covenant in light of the *BCHRC*'s prohibition of discrimination based on sexual orientation was not directly at issue in *TWU*, nor was it analyzed at any length by the lower courts and the Supreme Court of Canada. The Covenant's compliance with the *BCHRC* remains an open question, especially in light of evolving notions of human rights and the increased legal and societal recognition afforded to LGBTTT individuals and their relationships.

Given the national scope of the Federation's mandate and the increased mobility of lawyers between Canadian jurisdictions, any analysis of these issues cannot be limited to Trinity Western's compliance with B.C. legislation. Since the Federation's recommendation will be applied in every Canadian common law jurisdiction, consideration must be given to the Covenant's compatibility with other provincial and territorial human rights laws.

Provisions analogous to s. 41(1) of the *BCHRC* are found in 10 of 13 provincial and territorial human rights statutes, with great variations in language and scope.<sup>16</sup> For instance, the religious organization's "exemption" applies, subject to conditions, to all types of services and contracts in four provinces and one territory.<sup>17</sup> It is limited to employment contracts in five other jurisdictions.<sup>18</sup> As such, there appears to be no legal justification for Trinity Western's discriminatory rules and practices in at least eight out of thirteen Canadian jurisdictions.<sup>19</sup>

As for the five jurisdictions where human rights laws include a more general exemption for religious organizations, jurisprudence interpreting the clauses is scarce and, in some respects, dated, at least at the Supreme Court of Canada level. The predecessor to s. 41 of the *BCHRC* was considered by the Supreme Court in the 1984 case of *Caldwell v. Stuart*,<sup>20</sup> while *Brossard v. Québec (Comm. des droits de la personne)*,<sup>21</sup> issued in 1988, dealt with s. 20 of the Quebec *Charter of Human Rights and Freedoms*.<sup>22</sup>

In both judgments, the last to substantially consider the scope of exemptions for religious organizations at the Supreme Court level, the Court outlined their close connection to the protection of freedom of association. In *Brossard*, the Court held that in order to qualify for the exemption, a non-profit organization "must have, as a primary purpose, the promotion of the interests and welfare of an identifiable group of persons characterized by a common [enumerated] ground..."<sup>23</sup> The Court then added that "the distinction, exclusion or preference practised by the non-profit institution to which the second branch applies must be justified in an objective sense by the particular nature of the institution

<sup>16</sup> The relevant provisions of provincial and territorial statutes are reproduced in Schedule A.

<sup>17</sup> Namely British Columbia, Ontario, Quebec, Prince Edward Island and Yukon.

<sup>18</sup> Namely Saskatchewan, Nova Scotia, Newfoundland and Labrador, Northwest Territories and Nunavut. In the case of Newfoundland and Labrador, the exemption also covers membership in a religious organization; see s. 11(3)(d) of the *Human Rights Act, 2010*, S.N.L. 2010, c. H-13.1.

<sup>19</sup> Namely Alberta, Saskatchewan, Manitoba, New Brunswick, Nova Scotia, Newfoundland and Labrador, Northwest Territories and Nunavut.

<sup>20</sup> [1984] 2 S.C.R. 603 ("*Caldwell*").

<sup>21</sup> [1988] 2 S.C.R. 279 ("*Brossard*").

<sup>22</sup> R.S.Q., c. C-12. That provision reads: "A distinction, exclusion or preference based on the aptitudes or qualifications required for an employment, or justified by the charitable, philanthropic, religious, political or educational nature of a non-profit institution or of an institution devoted exclusively to the well-being of an ethnic group, is deemed non-discriminatory."

<sup>23</sup> *Supra* note 23, at para 130.

in question."<sup>24</sup> We submit that Trinity Western's ban on sexual intimacy outside of marriage between a man and a woman is not so *objectively* justified.

Pursuant to the *Trinity Western University Act*,<sup>25</sup> it is recognized as a Christian institution affiliated with the Evangelical Free Church of Canada. Yet the university does not purport to have "as a primary purpose, the promotion of the interests and welfare of an identifiable group of persons", nor to exclude individuals who do not share its religious beliefs. On the contrary, under its legislative mandate, it must welcome students of all faiths. Subsection 3(2) of the Act, as amended, provides:

(2) The objects of the University shall be to provide for young people of any race, colour, or creed university education in the arts and sciences with an underlying philosophy and viewpoint that is Christian. [Emphasis added]

It appears that the B.C. legislature has *not* authorized the institution to grant "a preference to members" of any particular church or religion, or to individuals who hold beliefs similar to those of the Evangelical Free Church of Canada, but rather has specified that its public mandate must be exercised to be inclusive of people of *all* races and creeds. This should include individuals who do *not* share Trinity Western's views on sexual intimacy, notably members of the LGBTT communities. One is hard pressed to see how purporting to exclude LGBTT students, or force them to conceal their true identity, could amount to an objectively justifiable purpose rationally connected to Trinity Western's educative mandate, irrespective of that school's worldview.

#### **D. Following these recommendations would not hamper freedom of religion**

Some, including the British Columbia Civil Liberties Association, have argued that denying Trinity Western's application would violate the freedom of religion and freedom of association of the school's community.<sup>26</sup> We respectfully disagree.

As recently noted by the Supreme Court of Canada in *Whatcott*, relying on its jurisprudence post-*TWU*, freedom of religion is only infringed where: "(1) the claimant sincerely holds a belief or practice that has a nexus with religion; and (2) the provision at issue interferes with the claimant's ability to act in accordance with his or her religious beliefs."<sup>27</sup> The interference must be so serious as to "[threaten] actual religious beliefs or conduct."<sup>28</sup>

Although we do not question the sincerity of the religious beliefs of those forming the Trinity Western community on sexual mores, removing or modifying the school's Covenant and other rules, practices and policies, as we suggest in the conclusion to this letter, would fall short of threatening the beliefs or conduct of these individuals. Trinity Western's Christian character and affiliation to the Evangelical Free Church of Canada could be maintained. Those who share the school's views on sexual intimacy would still be welcomed as faculty and students, the same way they are at every other university in Canada, and they would be free to express their beliefs and to try to convince others to abide by the same moral standards. What would be forbidden is the creation of a "LGBTT-

<sup>24</sup> *Ibid.*, at para 138. According to the B.C. Court of Appeal in *Vancouver Rape Relief Society v. Nixon*, 2005 BCCA 601 (CanLII) (leave application denied, February 1, 2007, S.C.C. No. 31633), at paras 52-53, the *BCHRC* is not so limitative. Be that as it may, the Court, based on *Caldwell*, accepted that there had to be a "rational connection" between the discriminatory practice and the institution's objects: "All of this is to say that, in my view, the reviewing judge was correct in following the guidance of *Caldwell* and concluding that a group can prefer a subgroup of those whose interests it was created to serve, given good faith and provided there is a rational connection between the preference and the entity's work, or purpose" (para. 58).

<sup>25</sup> S.B.C. 1969, c. 44,

<sup>26</sup> Letter from BCCLA to the Federation, January 31, 2013, online: <http://bccla.org/wp-content/uploads/2013/01/2013-BCCLA-Letter-to-Herman-Wolfe-TWU.pdf>.

<sup>27</sup> *Whatcott*, *supra* note 13, at para 155.

<sup>28</sup> *Ibid.* [emphasis added].

free" school environment, which is no more of a right guaranteed by freedom of religion than a "women-free" or "Jew-free" campus would be.

Even if a violation of freedom of religion could be demonstrated, s. 1 of the *Charter* would require that it be reconciled with the right to equality accorded to all Canadians.<sup>29</sup> One would have to account for the fact that the exercise of freedom of religion by Trinity Western's members denies LGBTTT's faculty and students respect for their dignity and equality, as protected by s. 15(1) of the *Charter*. As the Supreme Court held in *Ross v. New Brunswick School District No. 15*,<sup>30</sup> "[w]here the manifestations of an individual's right or freedom are incompatible with the very values sought to be upheld in the process of undertaking a s. 1 analysis, then, an attenuated level of s. 1 justification is appropriate."<sup>31</sup> For these reasons, we believe that Trinity Western's exclusion of LGBTTT individuals would not meet this test.

To sum up, we believe that freedom of religion does not allow one group of individuals to exclude another group of identifiable individuals from access to a public service, such as a university education, on the ground of race, colour, religion, national origin, gender, sexual orientation, gender identity, age or disability, except of course when academically justified based on admission and eligibility criteria.<sup>32</sup> In our view, institutional rules that discriminate against identifiable groups of people, which for too long restricted or denied access to some professions to certain racial and religious minorities,<sup>33</sup> have no place in today's Canada.

## E. The U.S. Experience

These issues may be informed by the U.S. experience and approach.

In *Bob Jones University v. United States*,<sup>34</sup> the U.S. Supreme Court was called on to determine whether the Internal Revenue Services (IRS) could deny tax-exempt status to two non-profit private schools that prescribed and enforced racially discriminatory admission standards on the basis of religious doctrine.<sup>35</sup> The IRS had removed the schools' charitable status on the ground that their admission policies and rules of conduct violated federal anti-discrimination laws.

The Court confirmed the IRS's decision, holding that it was justified under the circumstances. The Chief Justice noted that "racial discrimination in education violates deeply and widely accepted views of elementary justice"<sup>36</sup> and the "governmental interest [in eradicating racial discrimination in education] substantially outweighs whatever burden denial of tax benefits places on petitioners' exercise of their religious beliefs."<sup>37</sup>

<sup>29</sup> *Whatcott*, *supra* note 13, at para 161.

<sup>30</sup> [1996] 1 S.C.R. 825.

<sup>31</sup> *Ibid.*, para 94, cited in *Whatcott*, *supra* note 13, at para 162.

<sup>32</sup> *University of British Columbia v. Berg*, [1993] 2 S.C.R. 353.

<sup>33</sup> For example, up to the 1960s, McGill University and U of Toronto imposed "quotas" on the admission of Jewish students to medical school and restrictions on hiring Jewish faculty members; see Gerald Tulchinsky, *Canada's Jews: A People's Journey*, Toronto: University of Toronto Press (2008), pp. 132-133, 319-321, 410 and 415.

<sup>34</sup> 461 U.S. 574 (1983) ("*Bob Jones University*").

<sup>35</sup> Bob Jones University was dedicated to the teaching and propagation of fundamentalist Christian religious beliefs, requiring its teachers to be devout Christians, with all courses being taught according to the Bible. Entering students were screened on their religious beliefs and their public and private conduct was regulated by standards promulgated by university authorities, including a complete ban on interracial dating and marriage, which was genuinely believed to be forbidden by scriptures. Goldsboro Christian Schools also gave special emphasis to the Christian religion and the ethics revealed in the Bible. The school maintained a racially discriminatory admission policy based upon its interpretation of scripture. It accepted mostly Caucasians and, on occasion, children from racially mixed marriages in which one of the parents was Caucasian.

<sup>36</sup> *Bob Jones University*, *supra* note 42, at p. 592.

<sup>37</sup> *Ibid.*, at p. 604.

The same may be said of discrimination on the basis of sexual orientation in Canada, which is prohibited under the *Charter* as well as federal, provincial and territorial human rights laws. That was the question at issue in *Christian Legal Society of University of California, Hastings College of Law v. Martinez*<sup>38</sup>, where the U.S. Supreme Court had to determine whether a public law school, part of the state government's network of universities, could refuse to officially recognize a student group that denied membership to students who did not share the organization's core beliefs about religion and sexual orientation, but instead require that it open its membership to all students irrespective of their religious beliefs or sexual orientation.<sup>39</sup>

The Court found that although the group's core beliefs enjoyed protection under the First Amendment of the U.S. Constitution, (which guarantees freedom of speech, association and religion) the university's refusal to recognize organizations that practiced discrimination fulfilled "reasonable educational purposes."<sup>40</sup> The group had argued that the university held no legitimate interest in urging "religious groups not to favor coreligionists for purposes of their religious activities." The Court's response was:

[...] CLS's analytical error lies in focusing on the benefits it must forgo while ignoring the interests of those it seeks to fence out: Exclusion, after all, has two sides. Hastings, caught in the crossfire between a group's desire to exclude and students' demand for equal access, may reasonably draw a line in the sand permitting all organizations to express what they wish but no group to discriminate in membership. [Footnote omitted] [Emphasis added]<sup>41</sup>

In concurring reasons, Stevens J. noted that the constitutional protection afforded to freedom of religion and speech does not impose on a government agency the obligation to officially recognize every religious organization, irrespective of their discriminatory beliefs and conduct:

[...] Other groups may exclude or mistreat Jews, blacks, and women—or those who do not share their contempt for Jews, blacks, and women. A free society must tolerate such groups. It need not subsidize them, give them its official imprimatur, or grant them equal access to law school facilities. [Emphasis added]<sup>42</sup>

In August 2012, the American Bar Association adopted new *Standards and Rules of Procedure for Approval of Law Schools*.<sup>43</sup> Standard 211, "Non-discrimination and Equality of Opportunity", stipulates that "[a] law school shall not use admission policies or take other action to preclude admission of applicants or retention of students on the basis of race, color, religion, national origin, gender, sexual orientation, age or disability."<sup>44</sup> Although law schools may have a religious affiliation or purpose, adopt and apply admission and employment policies that directly relate to their affiliation or purpose, and prefer persons adhering to same, the policies must not interfere with academic freedom and "shall not be applied to use admission policies or take other action to

<sup>38</sup> 561 U.S. \_\_ (2010) ("*CLS*").

<sup>39</sup> Christian Legal Society's chapters had to adopt bylaws that required members and officers to sign a "Statement of Faith" and to conduct their lives in accord with prescribed principles. Among those tenets was the belief that sexual activity should not occur outside of marriage between a man and a woman, thereby excluding LGBTT students and those who did not share the group's religious views on such issues.

<sup>40</sup> *CLS*, *supra* note 46, at p. 2 of the Court's opinion, written by Ginsburg J.

<sup>41</sup> *Ibid.*, at p. 28 of the Court's opinion, written by Ginsburg J.

<sup>42</sup> *Ibid.*, at p. 6 of Steven J.'s concurring opinion.

<sup>43</sup> Available online at:

[http://www.americanbar.org/content/dam/aba/publications/misc/legal\\_education/Standards/2012\\_2013\\_ab\\_a\\_standards\\_and\\_rules.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2012_2013_ab_a_standards_and_rules.authcheckdam.pdf).

<sup>44</sup> *Ibid.*, at p. 12.



preclude admission of applicants or retention of students on the basis of race, color, religion, national origin, gender, sexual orientation, age or disability.”<sup>45</sup>

## F. Conclusions

Lawyers are viewed as leaders in their communities. Lawyers rely on law societies to offer leadership and regulation in the public interest, including on issues relating to equality. SOGIC and the Equality Committee believe that the Federation must consider the educational philosophy and environment of a law school and how that impacts the institution’s ability to teach law, to properly perform its function of assessing compliance with the National Standards. As the U.S. Supreme Court held in *Norwood v. Harrison*,<sup>46</sup> “a private school—even one that discriminates—fulfills an important educational function; however, [...] [that] legitimate educational function cannot be isolated from discriminatory practices. [...] [D]iscriminatory treatment exerts a pervasive influence on the entire educational process.”<sup>47</sup>

Our members are your members. They have voiced concerns about Trinity Western’s proposal to us, and we agree. We have seen Canadian law societies work to protect and encourage diversity in law and in the practice of law and we view them as allies in this regard. Whether via an Equity Office or Officer, Equity Ombudsman, or a like representative, our law societies have done our members proud. We are asking them, and the Federation, to honour and continue that tradition. We urge you to reconsider your stance in pursuance of the law societies’ duty to regulate the legal profession in the public interest.

The Federation must strike a balance between freedom of religion and equality, and give full consideration to its public interest mandate and to the values embodied in our human rights instruments. In that respect, we invite the Federation to seek inspiration from the ABA’s August 2012 *Standards and Rules of Procedure for Approval of Law Schools*.

Finally, Trinity Western’s application does not necessarily call for an “all or nothing” response. For example, short of rejecting it, the Federation could ask Trinity Western to remove or modify its Covenant and other rules, practices and policies which detract from its ability to meet the National Standards and to comply with human rights laws across the country as well as minimum norms guaranteeing academic freedom. This could be achieved while maintaining the Christian character of the school, yet ensuring that it is truly open to “young people of any race, colour, or creed,” in accordance with its statutory mandate.

We hope this letter is the beginning of an open dialogue on this very important issue. SOGIC and the Equality Committee would be pleased to assist in whatever way you believe would be appropriate.

Yours truly,

*(signed by Rebecca Bromwich for Amy Sakalauskas, Robert Peterson and Level Chan)*

Amy Sakalauskas  
Co-chair, CBA Sexual  
Orientation and Gender  
Identity Conference

Robert Peterson  
Co-chair, CBA Sexual  
Orientation and Gender  
Identity Conference

Level Chan  
Chair, CBA Equality  
Committee

cc: See Appendix A

<sup>45</sup> *Ibid.*, at pp. 12-13 [emphasis added].

<sup>46</sup> 413 U.S. 455 (1973). The Court held in that case that a state could not constitutionally give or lend textbooks to students who attended a private school that discriminated on the basis of race.

<sup>47</sup> *Ibid.*, at pp. 468-469 [emphasis added].

**SCHEDULE**  
**PROVINCIAL AND TERRITORIAL HUMAN RIGHTS PROVISIONS GRANTING EXEMPTIONS TO**  
**PRIVATE OR RELIGIOUS ORGANIZATIONS**

**I. PROVINCIAL AND TERRITORIAL STATUTES WITH A GENERAL EXCEPTION FOR RELIGIOUS ORGANIZATIONS**

**British Columbia - *Human Rights Code*, R.S.B.C. 1996, c. 210**

**41.** (1) If a charitable, philanthropic, educational, fraternal, religious or social organization or corporation that is not operated for profit has as a primary purpose the promotion of the interests and welfare of an identifiable group or class of persons characterized by a physical or mental disability or by a common race, religion, age, sex, marital status, political belief, colour, ancestry or place of origin, that organization or corporation must not be considered to be contravening this Code because it is granting a preference to members of the identifiable group or class of persons.

**Ontario - *Human Rights Code*, R.S.O. 1990, c. H.19**

**18.** The rights under Part I to equal treatment with respect to services and facilities, with or without accommodation, are not infringed where membership or participation in a religious, philanthropic, educational, fraternal or social institution or organization that is primarily engaged in serving the interests of persons identified by a prohibited ground of discrimination is restricted to persons who are similarly identified.

**Quebec - *Charter of Human Rights and Freedoms*, R.S.C., c. C-12**

**20.** A distinction, exclusion or preference based on the aptitudes or qualifications required for an employment, or justified by the charitable, philanthropic, religious, political or educational nature of a non-profit institution or of an institution devoted exclusively to the well-being of an ethnic group, is deemed non-discriminatory.

**Prince Edward Island - *Human Rights Act*, R.S.P.E.I. 1988, c. H-12**

- 6.** (1) No person shall refuse to employ or to continue to employ any individual
- (a) on a discriminatory basis, including discrimination in any term or condition of employment; or
  - (b) because the individual has been convicted of a criminal or summary conviction offence that is unrelated to the employment or intended employment of the individual.

(4) This section does not apply to

[...]

- (c) an exclusively religious or ethnic organization or an agency of such an organization that is not operated for private profit and that is operated primarily to foster the welfare of a religious or ethnic group with respect to persons of the same religion or ethnic origin as the case may be, if age, colour, creed, ethnic or national origin, family status, marital status, disability, political belief, race, religion, sex, sexual orientation or source of income is a reasonable occupational qualification.

**10.** (1) No person or agency carrying out a public function, including fire protection or hospital services, through the use in whole or in part of functions volunteers, shall exclude, expel or limit any volunteer applicant on a discriminatory basis.

(2) This section does not apply to an exclusively religious or ethnic organization that is not

operated for private profit and that is operated primarily to foster the welfare of a religious or ethnic group with respect to persons of the same religion or ethnic origin, as the case may be.

**Yukon - *Human Rights Act*, R.S.Y. 2002, c. 116**

**11.** (1) It is not discrimination for a religious charitable, educational, social, cultural, or athletic organization to give preference to its members or to people the organization exists to serve.

**II. PROVINCIAL AND TERRITORIAL STATUTES WITH A RELIGIOUS ORGANIZATION EXCEPTION LIMITED TO EMPLOYMENT AND MEMBERSHIP IN THE ORGANIZATION**

**Newfoundland and Labrador - *Human Rights Act*, 2010, S.N.L. 2010, c. H-13.1**

**11.** (1) A person shall not, on the basis of a prohibited ground of discrimination,  
(a) deny to a person or class of persons goods, services, accommodation or facilities that are customarily offered to the public; or  
(b) discriminate against a person or class of persons with respect to goods, services, accommodation or facilities that are customarily offered to the public.

[...]

(3) Subsection (1) does not apply

[...]

- (d) to a restriction on membership on the basis of a prohibited ground of discrimination, in a religious, philanthropic, educational, fraternal, sororal or social organization that is primarily engaged in serving the interests of a group of persons identified by that prohibited ground of discrimination; or
- (e) to other situations where a good faith reason exists for the denial of or discrimination with respect to accommodation, services, facilities or goods.

**14.** (1) An employer, or a person acting on behalf of an employer, shall not refuse to employ or to continue to employ or otherwise discriminate against a person in regard to employment or a term or condition of employment on the basis of a prohibited ground of discrimination, or because of the conviction for an offence that is unrelated to the employment of the person.

[...]

(8) This section does not apply to an employer

- (a) that is an exclusively religious, fraternal or sororal organization that is not operated for private profit, where it is a reasonable and genuine qualification because of the nature of the employment; or

[...]

**III. PROVINCIAL AND TERRITORIAL STATUTES WITH A RELIGIOUS ORGANIZATION EXCEPTION LIMITED TO EMPLOYMENT**

**Saskatchewan - *Saskatchewan Human Rights Code*, S.S. 1979, c. S-24.1**

**16.** (1) No employer shall refuse to employ or continue to employ or otherwise discriminate against any person or class of persons with respect to employment, or any term of employment, on the basis of a prohibited ground.

[...]

(10) This section does not prohibit an exclusively non-profit charitable, philanthropic, fraternal, religious, racial or social organization or corporation that is primarily engaged in serving the interests of persons identified by their race, creed, religion, colour, sex, sexual orientation, family status, marital status, disability, age, nationality, ancestry, place of origin or receipt of public assistance from employing only or giving preference in employment to persons similarly identified

if the qualification is a reasonable and *bona fide* qualification because of the nature of the employment.

**Nova Scotia - Human Rights Act, R.S.N.S. 1989, c. 214**

**5. (1) No person shall in respect of**

- (a) the provision of or access to services or facilities;
- [...]
- (d) employment;
- (e) volunteer public service;
- [...]

discriminate against an individual or class of individuals on account of

- (h) age;
- (i) race;
- (j) colour;
- (k) religion;
- (l) creed;
- (m) sex;
- (n) sexual orientation;
- (o) physical disability or mental disability;
- (p) an irrational fear of contracting an illness or disease;
- (q) ethnic, national or aboriginal origin;
- (r) family status;
- (s) marital status;
- (t) source of income;
- (u) political belief, affiliation or activity;
- (v) that individual's association with another individual or class of individuals having characteristics referred to in clauses (h) to (u).

**6. Subsection (1) of Section 5 does not apply**

- [...]
- (c) in respect of employment, to
- [...]
- (ii) an exclusively religious or ethnic organization or an agency of such an organization that is not operated for private profit and that is operated primarily to foster the welfare of a religious or ethnic group with respect to persons of the same religion or ethnic origin, as the case may be, with respect to a characteristic referred to in clauses (h) to (v) of subsection (1) of Section 5 if that characteristic is a reasonable occupational qualification, or
- (iii) employees engaged by an exclusively religious organization to perform religious duties;
- (d) in respect of volunteer public service, to an exclusively religious or ethnic organization that is not operated for private profit and that is operated primarily to foster the welfare of a religious or ethnic group with respect to persons of the same religion or ethnic origin, as the case may be;
- [...]

**Northwest Territories - Human Rights Act, S.N.W.T. 2002, c. 18**

**7. (1) No person shall, on the basis of a prohibited ground of discrimination,**

- (a) refuse to employ or refuse to continue to employ an individual or a class of individuals; or
- (b) discriminate against any individual or class of individuals in regard to employment or

any term or condition of employment.

[...]

(5) It is not a contravention of subsection (1) for an organization, society or corporation to give preference in employment to an individual or class of individuals if the preference is solely related to the special objects in respect of which the organization, society or corporation was established and the organization, society or corporation

(a) is not operated for private profit; and

(b) is

(i) a charitable, educational, fraternal, religious, social or cultural organization, society or corporation, or

(ii) an organization, society or corporation operated primarily to foster the welfare of a religious or racial group.

#### **Nunavut - *Human Rights Act*, S.Nu. 2003, c. 12**

9. (1) No person shall, on the basis of a prohibited ground of discrimination

(a) refuse to employ or refuse to continue to employ an individual or a class of individuals; or

(b) discriminate against any individual or class of individuals in regard to employment or any term or condition of employment, whether the term or condition was prior to or is subsequent to the employment.

(6) It is not a contravention of subsection (1) for an organization, society or corporation to give preference in employment to an individual or class of individuals if the preference is solely related to the special objects in respect of which the organization, society or corporation was established and the organization, society or corporation

(a) is a not for profit organization, society or corporation; and

(b) is

(i) a charitable, educational, fraternal, religious, athletic, social or cultural organization, society or corporation, or

(ii) an organization, society or corporation operated primarily to foster the welfare of a religious or racial group.

#### **IV. PROVINCIAL AND TERRITORIAL STATUTES WITH NO SPECIFIC EXCEPTION FOR RELIGIOUS ORGANIZATIONS**

##### **Alberta - *Alberta Human Rights Act*, R.S.A. 2000, c. A-25.5**

7. (1) No employer shall

(a) refuse to employ or refuse to continue to employ any person, or

(b) discriminate against any person with regard to employment or any term or condition of employment,

because of the race, religious beliefs, colour, gender, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation of that person or of any other person.

[...]

(3) Subsection (1) does not apply with respect to a refusal, limitation, specification or preference based on a *bona fide* occupational requirement.

##### **Manitoba - *The Human Rights Code*, C.C.S.M., c. H175**

13. (1) No person shall discriminate with respect to any service, accommodation, facility, good, right, licence, benefit, program or privilege available or accessible to the public or to a section of the

public, unless *bona fide* and reasonable cause exists for the discrimination.

**New Brunswick - Human Rights Act, R.S.N.B. 2011, c. 171**

4. (1) No employer, employers' organization or other person acting on behalf of an employer shall, because of race, colour, religion, national origin, ancestry, place of origin, age, physical disability, mental disability, marital status, sexual orientation, sex, social condition or political belief or activity,

- (a) refuse to employ or continue to employ any person, or
- (b) discriminate against any person in respect of employment or any term or condition of employment.

(5) Despite subsections (1), (2), (3) and (4), a limitation, specification or preference on the basis of race, colour, religion, national origin, ancestry, place of origin, age, physical disability, mental disability, marital status, sexual orientation, sex, social condition or political belief or activity shall be permitted if the limitation, specification or preference is based on a *bona fide* occupational qualification as determined by the Commission.

6. (1) No person, directly or indirectly, alone or with another, by himself, herself or itself or by the interposition of another, shall, because of race, colour, religion, national origin, ancestry, place of origin, age, physical disability, mental disability, marital status, sexual orientation, sex, social condition or political belief or activity,

- (a) deny to any person or class of persons any accommodation, services or facilities available to the public, or
- (b) discriminate against any person or class of persons with respect to any accommodation, services or facilities available to the public.

(2) Despite subsection (1), a limitation, specification, exclusion, denial or preference because of sex, social condition, political belief or activity, physical disability, mental disability, marital status or sexual orientation shall be permitted if the limitation, specification, exclusion, denial or preference is based on a *bona fide* qualification as determined by the Commission.

## Appendix A – Carbon Copies

### Federation of Law Societies

- Jonathan Herman, CEO, Federation of Law Societies of Canada [jherman@flsc.ca](mailto:jherman@flsc.ca)
- Deborah Wolfe, Director, Law School Programs, Federation of Law Societies of Canada [dwolfe@flsc.ca](mailto:dwolfe@flsc.ca)

### Council of the Federation of Law Societies

- Past- President Marie-Claude Bélanger-Richard, Q.C. [mcbelanger@smss.com](mailto:mcbelanger@smss.com)
- John J.L. Hunter Q.C. [jhunter@litigationchambers.com](mailto:jhunter@litigationchambers.com)
- Gavin Hume Q.C. [ghume@harrisco.com](mailto:ghume@harrisco.com)
- Mona Duckett [mduckett@dsscrimlaw.com](mailto:mduckett@dsscrimlaw.com)
- Laurie H. Pawlitza, [lpawlitza@torkinmanes.com](mailto:lpawlitza@torkinmanes.com)
- Gregory Walen Q.C. [gwalen@scharfsteinlaw.com](mailto:gwalen@scharfsteinlaw.com)
- Jeff Hirsch [jbh@tdslaw.com](mailto:jbh@tdslaw.com)
- Babak Barin [bbarin@barinavocats.ca](mailto:bbarin@barinavocats.ca)
- Maurice Piette [mpiette@notarius.net](mailto:mpiette@notarius.net)
- Catherine S. Walker, Q.C. [cwalker@walkerlaw.ca](mailto:cwalker@walkerlaw.ca)
- Stephen D.G. McKnight, Q.C. [stephen.mcknight@mcinnescooper.com](mailto:stephen.mcknight@mcinnescooper.com)
- Sheila H. Greene, Q.C. [sgreene@nape.nf.ca](mailto:sgreene@nape.nf.ca)
- Susan Dennehy [susan.dennehy@yahoo.ca](mailto:susan.dennehy@yahoo.ca)
- Sheila MacPherson [smacpherson@lawsonlundell.com](mailto:smacpherson@lawsonlundell.com)
- Susanne Boucher [susanneboucher@mac.com](mailto:susanneboucher@mac.com)

### Law Society Leaders

- Timothy E. McGee, CEO and ED, Law Society of British Columbia [tmcgee@lsbc.org](mailto:tmcgee@lsbc.org)
- Arthur E. Vertlieb, Q.C., President, Law Society of British Columbia [art@verdos.com](mailto:art@verdos.com)
- Don Thompson, Q.C., ED, Law Society of Alberta [don.thompson@lawsociety.ab.ca](mailto:don.thompson@lawsociety.ab.ca)
- Stephen Raby, Q.C., President, Law Society of Alberta [steve.raby@nortonrose.com](mailto:steve.raby@nortonrose.com)
- Tom Schonhoffer, Q.C., ED, Law Society of Saskatchewan [reception@lawsociety.sk.ca](mailto:reception@lawsociety.sk.ca)
- Heather Laing, Q.C., President, Law Society of Saskatchewan [hlaing@mcdougallgauley.com](mailto:hlaing@mcdougallgauley.com)
- Allan Fineblit, Q.C., CEO, Law Society of Manitoba [afineblit@lawsociety.mb.ca](mailto:afineblit@lawsociety.mb.ca)
- Jack Cram, President, Law Society of Manitoba [admin@lawsociety.mb.ca](mailto:admin@lawsociety.mb.ca)
- Robert G.W. Lapper, Q.C., CEO, Law Society of Upper Canada [rlapper@lsuc.on.ca](mailto:rlapper@lsuc.on.ca)
- Thomas G. Conway, Treasurer, Law Society of Upper Canada [tconway@cavanagh.ca](mailto:tconway@cavanagh.ca)
- Claude Provencher, ED, Barreau du Québec [cprovencher@barreau.qc.ca](mailto:cprovencher@barreau.qc.ca)
- Nicolas Plourde, Bâtonnier, Barreau du Québec [nplourde@heenan.ca](mailto:nplourde@heenan.ca)
- Jean Lambert, Président, Chambre des notaires du Québec [information@cnq.org](mailto:information@cnq.org)
- Marc L. Richard, Q.C., ED, Law Society of New Brunswick [mrichard@lawsociety-barreau.nb.ca](mailto:mrichard@lawsociety-barreau.nb.ca)
- Richard J. Scott, Q.C., President, Law Society of New Brunswick [richard.scott@mcinnescooper.com](mailto:richard.scott@mcinnescooper.com)
- Timothy Daley, Q.C., President, Nova Scotia Barristers' Society [tim@gmpdlaw.ca](mailto:tim@gmpdlaw.ca)
- Darrel Pink, ED, Nova Scotia Barristers' Society [dpink@nsbs.org](mailto:dpink@nsbs.org)
- Susan M. Robinson, Secretary-Treasurer and ED, Law Society of PEI [srobinson@lspei.pe.ca](mailto:srobinson@lspei.pe.ca)
- Loretta Coady-MacAuley, President, Law Society of Prince Edward Island [lawsociety@lspei.pe.ca](mailto:lawsociety@lspei.pe.ca)
- Brenda B. Grimes, ED, Law Society of Newfoundland and Labrador [brenda.grimes@lawsociety.nf.ca](mailto:brenda.grimes@lawsociety.nf.ca)
- Morgan C. Cooper, President, Law Society of Newfoundland and Labrador [mccooper@mun.ca](mailto:mccooper@mun.ca)
- Lynn Daffe, ED, Law Society of Yukon [lynn.daffe@lawsocietyyukon.com](mailto:lynn.daffe@lawsocietyyukon.com)
- John W. Phelps, President, Law Society of Yukon [john.phelps@ppsc-sppc.gc.ca](mailto:john.phelps@ppsc-sppc.gc.ca)
- Linda Whitford, ED, Law Society of the Northwest Territories [linda@cba-nt.org](mailto:linda@cba-nt.org)
- Caroline Wawzonek, President, Law Society of the Northwest Territories [wawzonek@theedge.ca](mailto:wawzonek@theedge.ca)
- Nalini Vaddapalli, CEO, Law Society of Nunavut [ceo@lawsociety.nu.ca](mailto:ceo@lawsociety.nu.ca)
- Arthur Yuan, President, Law Society of Nunavut [administrator@lawsociety.nu.ca](mailto:administrator@lawsociety.nu.ca)

### Canadian Council of Law Deans

- Brigitte Pilon, ED, Council of Canadian Law Deans [brigitteclld@rogers.com](mailto:brigitteclld@rogers.com)
- Dean William F. Flanagan, President, Council of Canadian Law Deans [w.flanagan@queensu.ca](mailto:w.flanagan@queensu.ca)

### Trinity Western University

- Dr. Jonathan S. Raymond, President, Trinity Western University [president@twu.ca](mailto:president@twu.ca)

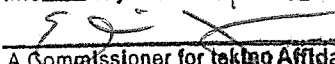
4.

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## QUESTIONS AND ANSWERS

Trinity Western University law degree proposal

*Ministry of Advanced Education*

This is Exhibit "E" referred  
the affidavit of Anne Macan  
sworn before me at Vancouver  
this 26 day of August 2005  
  
A Commissioner for taking Affidavits  
for British Columbia

### Key messages:

- Trinity Western University is a private university in British Columbia, which receives no operating or capital funding from government.
  - The Trinity Western University law degree proposal has undergone a two-stage review by the Ministry.
  - The Federation of Law Societies of Canada has granted preliminary approval and the Degree Quality Assessment Board has also provided the recommendation for the minister to approve.
  - The Federation of Law Societies' review looked at whether the degree would be considered sufficient to enable graduates to be admitted to the bar and practice law. This is relevant to the Ministry as it speaks to whether graduates may be eligible to practice law after graduation and relevant in a final decision whether to provide consent under the Degree Authorization Act.
  - The recommendation from the Degree Quality Assessment Board was based on the educational quality of the program, within the confines of the Degree Authorization Act.
  - An update will be provided once a final determination is made.
1. **How can you approve a law degree at a post-secondary institution that does not recognize same-sex marriage and even goes as far as to require staff and students to sign a covenant that say marriage is only "between one man and one woman"?**
- Trinity Western University is a faith-based, private university in British Columbia, which receives no operating or capital funding from government.
  - The Ministry of Advanced Education and the Degree Quality Assessment Board based their review solely on an assessment of the quality of the program, within the confines of the Degree Authorization Act.
  - The covenant applies to all staff and students, and is not just applicable to the proposed law degree.
2. **Shouldn't future lawyers be educated at an institution that is aligned with the equality clause of the Canadian Charter of Rights and Freedoms, especially given that same-sex marriage has been legal in Canada since July 2005?**
- Trinity Western University is a faith-based, private university in British Columbia, which receives no operating or capital funding from government.
  - The Ministry of Advanced Education and the Degree Quality Assessment Board based their review solely on an assessment of the quality of the program, within the confines of the Degree Authorization Act.

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## QUESTIONS AND ANSWERS

**4. Was the requirement for staff and students at TWU to sign a community covenant requirement a concern for the board or the ministry?**

- This requirement did come up as a concern for the board that it could have a detrimental effect on the quality of faculty and be an obstacle to the establishment of a credible law school.
- However, while TWU has the right to exercise its freedom of religion it is legally entitled to require faculty members and student to adhere to its religious perspective.
- TWU has agreed to waive this requirement for sessional and adjunct faculty but permanent faculty are still required to sign the statement of faith.

**5. When did TWU apply to have its proposed law degree approved by the ministry?**

- TWU board and senate approved the proposed law degree in April 2012 and subsequently sent its proposal to the ministry for approval.

**6. Why was ministry approval required despite the fact that TWU already has exempt status?**

- Although the Juris Doctor degree falls within TWU's exempt status level, the Ministry reserves the right to require any degree proposal to be reviewed by the Board if the proposal represents a significant departure from programs historically offered by the institution. On December 18, 2012, the application was referred to the Board to undergo a full quality assessment review.

**7. How much money does TWU receive from government?**

- Trinity Western University is a private university in British Columbia, which receives no operating or capital funding from government.

**8. Didn't TWU receive a number of grants from both provincial and federal government?**

- Over time, eligible institutions – both public and private – may have received one-time academic grants to support research topics deemed to be a priority.

**9. What was the outcome of the quality assessment board?**

- After discussion between TWU and the Degree Quality Assessment Board, the quality of the proposed law degree at TWU was deemed to meet consistent and high-quality criteria.
- The board recommended that the ministry grant consent for the law degree on condition that TWU implement the agreed to conditions of the review panel's report: that the institution hire qualified faculty and
- The Degree Quality Assessment Board focused solely on the quality of the proposed law degree.

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## QUESTIONS AND ANSWERS

**10. Why are you deferring to the Federation of Law Societies of Canada?**

- The outcome of the Federation of Law Societies of Canada review as to whether the degree would be considered sufficient to enable graduates to be admitted to the bar and practice law.
- This is a clearly relevant issue for the Ministry as it speaks to ensuring students are able to benefit from the education they receive, a matter of relevance in deciding whether to provide consent under the Degree Authorization Act.

**11. What was the outcome of the review by the Federation of Law Societies of Canada?**

- On Dec. 16, 2013, the Federation of Law Societies of Canada granted preliminary approval to a proposed new law school program at TWU.
- The approval committee identified three concerns and made one comment on aspects of the proposed program that it will monitor in subsequent reviews.
- A Special Advisory Committee concluded that there is no public interest reason to exclude future graduates of the program from law society bar admission programs as long as the program meets the national requirement.

**12. When Thompson Rivers University received provincial approval to offer a law degree did the ministry also wait for the review from the Federation of Law Societies prior to making a decision?**

- The Federation of Law Societies is the national coordinating body for Canada's 14 provincial and territorial law societies.
- The Federation does not undertake a quality review but does undertake a review of proposed new law programs on whether the learning outcomes of the program enable graduates to meet the competencies to practice law. This is done on behalf of the provincial regulatory body, the Law Society of BC. Should the Federation take the position of not approving the program, graduates would not be able to write the bar exam.
- The Federation made its decision regarding the Thompson Rivers University program prior to the completion of the Degree Quality Assessment Board process and Minister's approval.

**13. Are you treating TWU different from TRU because of their Community Covenant Agreement?**

- The Community Covenant did arise as a concern and TWU took steps necessary to meet the quality requirements of the board were met.
- A full program review is also undertaken when the degree represents a significant departure from programs historically offered by the institution.

**14. What are the next steps? Does this mean the Province will approve the proposed law school program at TWU?**

- Provincial government authorities decide whether universities can offer specific degree

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## QUESTIONS AND ANSWERS

programs. In this case, TWU still requires the consent under the Degree Authorization Act before it can offer a new law degree program.

- The Minister will make the final decision.

## ADVICE TO MINISTER

<b>CONFIDENTIAL ISSUES NOTE</b>  <b>Ministry: Advanced Education</b> <b>Date: Oct. 22, 2013</b> <b>Minister Responsible: Amrik Virk</b>	<b>Trinity Western University – proposed law degree</b>
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### ADVICE AND RECOMMENDED RESPONSE:

- Trinity Western University is a private university in British Columbia, which receives no operating or capital funding from government.
- The Trinity Western University law degree proposal has undergone the quality assessment process and is now under review by the Ministry.
- As part of the review, the Ministry is awaiting the outcome of the Federation of Law Societies' review as to whether the degree would be considered sufficient to enable graduates to be admitted to the bar and practice law. This is relevant to the Ministry as it speaks to the quality of the degree and relevant in a final decision whether to provide consent under the Degree Authorization Act.
- Once the review is completed, an update will be provided at that time.

### If asked about the Degree Quality Assessment Board recommendation:

- The Degree Quality Assessment Board made the recommendation to the ministry that the proposed law degree met the degree program quality assessment criteria.
- The board also recommended several special terms and conditions of consent.

### BACKGROUND REGARDING THE ISSUE:

- Trinity Western University, a faith-based private university located in Langley, is proposing to offer a Juris Doctor degree, a second-entry bachelor's degree in law. It hopes to launch the program in September 2015.
- The Degree Quality Assessment Board undertook a review and made a number of recommendations to ensure the quality of the proposed law degree. Concerns were noted about the institutions statement of faith and community covenant that all staff and students are required to sign. TWU addressed this by agreeing that temporary and adjunct faculty members would not be required to sign the covenant.
- The community covenant defines marriage as being between one man and one woman. This has created controversy due to same-sex marriage being recognized by the Canadian court since 2005 under the equality clause of the Canadian Charter of Rights and Freedoms.
- The Federation of Law Societies does not undertake a quality review but does undertake a review of proposed new law programs on whether the learning outcomes of the program enable graduates to meet the competencies to practice law. This is done on behalf of the provincial regulatory body, the Law Society of BC. Should the Federation take the position of not approving the program, graduates would not be able to write the bar exam.
- In 2001, the Supreme Court of Canada ruled in Trinity Western University v. British Columbia College of Teachers following a similar issue.

**DISCUSSION/ADVICE:**

- The Ministry is writing to the Federation to seek a decision from them with regard to whether they will recognize the proposed law degree.

S13

Communications Contact: Rodney Porter  
 Program Area Contact: Dorothy Rogers  
 File Created:  
 File Updated:  
 File Location: Document2

Minister's Office	Program Area	Deputy	Communications Director / Manager
			Rodney Porter

## ADVICE TO MINISTER

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<b>CONFIDENTIAL ISSUES NOTE</b>	
Ministry: Advanced Education Date: Oct. 29, 2013 Update: Dec. 16, 2013 Minister Responsible: Amrik Virk	<b>Trinity Western University – proposed law degree</b>

### ADVICE AND RECOMMENDED RESPONSE:

- Trinity Western University is a private university in British Columbia, which receives no operating or capital funding from government.
- The Trinity Western University law degree proposal has undergone a two-stage review by the Ministry.
- The Federation of Law Societies of Canada has granted preliminary approval and the Degree Quality Assessment Board has also provided the recommendation to approve.
- The Federation of Law Societies' review looked at whether the degree would be considered sufficient to enable graduates to be admitted to the bar and practice law. This is relevant to the Ministry as it speaks to whether graduates may be eligible to practice law after graduation and relevant in a final decision whether to provide consent under the *Degree Authorization Act*.
- The recommendation from the Degree Quality Assessment Board was based on the educational quality of the program, within the confines of the *Degree Authorization Act*.
- An update will be provided once a final determination is made.

### BACKGROUND REGARDING THE ISSUE:

- TWU, a faith-based private university located in Langley, is proposing to offer a Juris Doctor degree, which is a professional degree and first professional degree in law. It hopes to launch the program in September 2015.
- On Dec. 16, 2013, the Federation of Law Societies of Canada granted preliminary approval to a proposed new law school program at TWU. The approval committee identified three concerns and made one comment on aspects of the proposed program that it will monitor in subsequent reviews. A Special Advisory Committee concluded that there is no public interest reason to exclude future graduates of the program from law society bar admission programs as long as the program meets the national requirement.
- The Federation of Law Societies does not undertake a quality review but does undertake a review of proposed new law programs on whether the learning outcomes of the program enable graduates to meet the competencies to practice law. This is done on behalf of the provincial regulatory body, the Law Society of BC. If the Federation had not approved the program, graduates would not have been able to write the bar exam.
- The Degree Quality Assessment Board undertook a review and made a number of recommendations to ensure the quality of the proposed law degree. Concerns were

noted about the institutions statement of faith and community covenant that all staff and students are required to sign. TWU addressed this by agreeing that temporary and adjunct faculty members would not be required to sign the covenant.

- The community covenant defines marriage as being between one man and one woman. This has created controversy due to same-sex marriage being recognized by the Canadian court since 2005 under the equality clause of the Canadian Charter of Rights and Freedoms.
- In 2001, the Supreme Court of Canada ruled in Trinity Western University v. British Columbia College of Teachers following a similar issue.
- The Federation convened a Special Advisory Committee to review issues raised with respect to TWU's Community Covenant. The Committee recommended that as long as the National Requirement is met, there is not public interest reason to exclude graduates of the program. The Committee also recommended that consideration be given to adding a non-discriminatory provision into the National Requirement.

#### DISCUSSION/ADVICE:

- Provincial government authorities decide whether universities can offer specific degree programs. In this case, TWU will require the consent of the British Columbia Ministry of Advanced Education before it can offer a new law degree program.

• S13

Communications Contact: Rodney Porter  
Program Area Contact: Dorothy Rogers  
File Created: Oct. 29, 2013  
File Updated: Dec. 16, 2013  
File Location:

Minister's Office	Program Area	Deputy	Communications Director / Manager
	Claire Avison Val Bakowski	Sandra Carroll	Rodney Porter

This is the 1<sup>st</sup> Affidavit  
of Anne Macaulay in this case  
and was made on 27/08/2014

No. S-142908  
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN

**TREVOR JAMES LOKE**

PETITIONER

AND

**MINISTER OF HIGHER EDUCATION OF BRITISH  
COLUMBIA and TRINITY WESTERN UNIVERSITY**

RESPONDENTS

**AFFIDAVIT # 1 OF ANNE MACAULAY**

Janes Freedman Kyle Law Corporation  
340 – 1122 Mainland Street  
Vancouver, BC V6B 5L1  
Telephone: 604-687-0549  
Attention: Karey Brooks, File No.: 1202-001





This is the 2nd Affidavit  
of William Brent Cotter in this case  
and was made on August 28, 2014

No. S-142908  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**BETWEEN:**

This is Exhibit "P" referred to in the  
affidavit of Trevor Tse  
sworn before me at Vancouver  
this 16 day of January 2015.

TREVOR JAMES LOKE

**PETITIONER**

  
A Commissioner for taking Affidavits  
for British Columbia

AND

MINISTER OF ADVANCED EDUCATION OF BRITISH COLUMBIA and TRINITY  
WESTERN UNIVERSITY

**RESPONDENTS**

**AFFIDAVIT #2 OF WILLIAM BRENT COTTER**

I, WILLIAM BRENT COTTER, Law Professor, of the City of Saskatoon, in the Province of  
Saskatchewan, MAKE OATH AND SAY AS FOLLOWS:

1. I am a professor at the College of Law at the University of Saskatchewan in Saskatoon,  
Saskatchewan and have worked as a professor and Dean [2004 to 2010] at the College of  
Law since 2004. I was a professor at Dalhousie Law School from 1977 to 1991, a  
professor and Chair, Legal Ethics and Legal Education at the Faculty of Law, University  
of Alberta in 1991-92 and a Deputy Minister in the Government of Saskatchewan from  
1992 to 2004.
2. I have reviewed the affidavit of Jack H. Falk, made July 15, 2014, filed in these  
proceedings. I provide this affidavit in response to the evidence of Mr. Falk. Mr. Falk

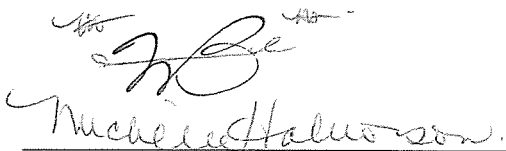
suggests that a public university could decide to make more law school spaces available if it wished to do so by asking the Ministry to fund more seats in the targeted faculty or university as a whole, or by reallocating funding within the university to expand the number of seats in a program. To my knowledge, there is no evidence of law school seats actually being increased in the manner suggested by Mr. Falk.

3. There are a number of explanations for why universities are unlikely to expand the number of first year seats in a law program. First, any meaningful increase in law school seats would likely involve adding a section in first year law, which would also require hiring a group of professors to teach that section, and the addition of courses and sections of upper year classes to absorb the students and provide meaningful opportunities for them. Therefore, the addition of seats would involve a significant expenditure related to the hiring of new faculty.
4. Second, universities seldom have an interest in expanding law school seats. They do not benefit significantly from increases since additional student tuition tends to go directly to the law schools.
5. Third, law schools are similarly disinclined to increase class sizes. At the law schools there tends to be a preference for relatively smaller class sizes, resulting in higher quality teaching and a less impersonal school environment. Law faculties also wish to devote significant time to research and scholarship, which are often key factors in the ranking of law schools.
6. Finally, governments rarely seek out increases in law school places either by funding more seats in existing law schools or by establishing new faculties of law. The public view tends to be that there are too many lawyers, and a government that is willing to spend valuable public resources to support the expansion of entering places at a law school would be operating contrary to this public sentiment, perhaps with adverse political consequences.
7. Before the recent establishment of Thompson Rivers University, Faculty of Law in Kamloops, British Columbia (2011) and Lakehead University, Faculty of Law in

Thunder Bay, Ontario (2013), governments had not approved new law schools since 1978 with the Université de Moncton, École de droit in New Brunswick.

8. In addition, the legal profession rarely has an economic or other interest in seeing law schools increase the number of places.
9. There are numerous Canadians who are well qualified and who want to attend law school, and I am aware that approximately 600 qualified Canadian students leave Canada to study law each year predominantly because of the scarcity of law school places. For the reasons above law schools have made only moderate efforts to expand and create opportunities for these students to attend, those increases are concentrated in a very small number of law schools (University of Ottawa, University of Windsor and University of Calgary), none of which are in BC.
10. As such, it is not evident that the scenario proposed by Mr. Falk actually occurs. By way of contrasting example, at the University of Victoria, where Mr. Falk works, there has been little or no increase in law school places since the faculty opened in the mid-1970s. At UBC, the number of places in entering classes has declined from a high of 240 to approximately 180 today.

SWORN before me at the City of  
Saskatoon, in the Province of  
Saskatchewan, this 28th day of  
August, 2014.

  
Michelle Halusson

A Commissioner for taking affidavits  
for Saskatchewan

My commission expires Apr. 30, 2019.



William Brent Cotter

This is the 2nd Affidavit  
of William Brent Cotter in this case  
and was made on August 28, 2014

No. S-142908  
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH  
COLUMBIA

BETWEEN

TREVOR JAMES LOKE

PETITIONER

AND

MINISTER OF ADVANCED  
EDUCATION OF BRITISH  
COLUMBIA and TRINITY  
WESTERN UNIVERSITY

RESPONDENTS

**AFFIDAVIT #2**

**WILLIAM BRENT COTTER**

JFK Law Corporation  
340 – 1122 Mainland Street  
Vancouver, BC V6B 5L1  
Elin R.S. Sigurdson, File No.: 1202-001