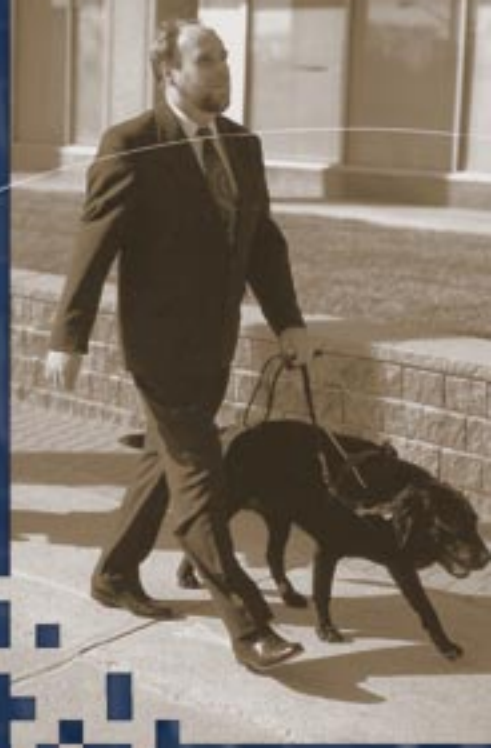


Lawyers with Disabilities: Overcoming Barriers to Equality



The Law Society
of British Columbia



A report of the
Disability Research Working Group
prepared for the Equity and Diversity Committee



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Lawyers with Disabilities: Overcoming Barriers to Equality is the second report of the Disability Research Working Group. For full background on this study, see the Working Group's first report, *Lawyers with Disabilities: Identifying Barriers to Equality*. Both reports are available on the Law Society website at www.lawsociety.bc.ca or by contacting the Law Society office.

FOREWORD

In November, 2000, the Disability Research Working Group of the Equity and Diversity Committee had the pleasure of presenting its first report, *Lawyers with Disabilities: Identifying Barriers to Equality*. That report was a milestone — the first in Canada to identify the obstacles facing lawyers with disabilities. Its focus, however, was on problems, not solutions.

Today, I'm delighted to introduce *Lawyers with Disabilities: Overcoming Barriers to Equality*, which concludes the second part of the Working Group's research project.

In life, it is easy to “nitpick,” criticize and otherwise find fault. As lawyers, identifying fault is often our primary objective in acting for our clients. However, when it comes to making real improvements in our world, it is necessary to go a step beyond criticizing. It is necessary to find positive, often creative ways to make changes.

This project is a classic example of how people can bring out their best in the quest for solutions when called upon to do so. During this stage of our work, the Working Group, with the expert assistance of Greg Tolliday, Kathryn Chapman and Kuan Foo, brought together experienced members of the profession: Benchers, judges, senior practitioners, law professors and government counsel. We asked for practical input on how to remove some of the barriers to equality faced by lawyers with disabilities. The practical, thoughtful input we received is documented in this report. We hope these suggestions will be implemented, thereby ensuring greater access to a great profession.

Complementing this report is a list of resources for lawyers with disabilities and for law firms, which may prove useful in facilitating accommodations. Both this report and the complementary resource guide are available on the Law Society website at www.lawsociety.bc.ca.

It is thanks to the contributions of a team of committed people, both in and outside of the profession, that we present this report and related materials. It is my hope that these provide the impetus for making positive, constructive changes within the legal profession, and the tools necessary to do so.

Halldor K. Bjarnason
Chair, Disability Research Working Group
Equity and Diversity Committee

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SUMMARY OF RECOMMENDATIONS

Following consultations with lawyers with disabilities, law schools and members of the legal profession, as well as research on successful initiatives from other jurisdictions, the Disability Research Working Group recommends that the Law Society of British Columbia work to sponsor and support the following actions to reduce or remove barriers to practice:

1. Develop a clear definition of the term “disability” for use in Law Society programs;
2. Establish an ongoing Law Society Access and Advisory Committee for Lawyers with Disabilities, expanded from the present Working Group;
3. Develop a business case to endorse and support a greater inclusion of lawyers with disabilities at all levels of the legal profession;
4. Provide to legal employers draft equity and diversity workplace policies respecting lawyers with disabilities;
5. Create a reserve fund and identify other sources of funding to assist law firms in providing accommodations for lawyers with disabilities;
6. Establish and support a mentoring program for lawyers with disabilities;
7. Establish and maintain an online “community meeting place” for lawyers with disabilities where information about resources, approaches, issues and other matters can be raised and discussed;
8. Develop an equity and diversity education program that includes diversity training for the judiciary and the legal profession;
9. Lobby to increase structural accommodation in BC courthouses, the Law Society building and other legal institutions;
10. Develop a program to have law firms commit to a series of tangible objectives regarding recruitment, hiring, retention, advancement and compensation for lawyers with disabilities.

In pursuing these recommendations, the Working Group and the Law Society must remain mindful of the need to engage senior members of the bar, the judiciary and the Canadian Bar Association (CBA) in this project.

1 Introduction

The Law Society of British Columbia has had a long-standing commitment to promoting equality and equity within the legal profession and to providing a supportive environment that advances human rights and affirms the dignity of all persons. The Law Society has recognized lawyers with disabilities as members of a historically disadvantaged group and is committed to developing effective strategies for removing barriers they face in the practice of law.

The Law Society's Disability Advisory Committee was established in 1995 and became a working group of the Law Society's Equity and Diversity Committee in 1998. The Equity and Diversity Committee is responsible for addressing all equity and diversity issues in the profession, including multicultural, aboriginal, gender, sexual orientation and disability issues. The Committee identifies barriers to equality and recommends means by which such barriers can be eliminated.

The challenge of eliminating barriers for people with disabilities is often viewed in terms of providing accessible buildings. Unfortunately, the problem is much more complex, encompassing both physical and attitudinal barriers. In fact, the greatest barriers are often not the physical ones. It is attitudinal barriers that can pose the most significant challenge. In some situations, effective accommodations may be overlooked or refused because incorrect assumptions are made either that no effective accommodation is available or that the cost of such accommodation will be excessive.

Identifying and implementing effective solutions includes looking at hiring and retention policies and addressing the support mechanisms available, both within firms and in the larger legal community. It demands a creative willingness to conform to both the letter and the spirit of anti-discrimination obligations.

This report of the Disability Research Working Group offers opportunities for the legal profession to become more inclusive and to ensure that lawyers with disabilities are encouraged to practise law in a manner that improves their professional status, financial security and sense of personal satisfaction and achievement.

The 1996 federal Task Force on Disability Issues recognized work as fundamental to one's sense of well-being and to citizenship.¹ The Task Force found that work is one of the top concerns of Canadians with disabilities and is integral to the dignity of the individual in the sense of accomplishment it brings, its value to the community and to society and the way it contributes to a sense of belonging. The Task Force also identified the tangible benefits of earning income, learning and participating in the goals of an enterprise as being important to a sense of self-worth and well-being.

¹ Federal Task Force on Disability Issues, *Equal Citizenship for Canadians With Disabilities, The Will to Act*, Oct. 1996, www.hrdc-drhc.gc.ca.

When lawyers with disabilities achieve greater opportunity and equity in work, the legal profession itself will gain from more diverse perspectives and viewpoints. As has already been demonstrated by the greater inclusion of women and visible minorities, the profession benefits from diversity. Law firms profit from having a broader pool of qualified practitioners from which to draw. Increasing access for lawyers with disabilities also increases access and choice for clients with disabilities and allows firms to provide better service to that sector of the population.

Removing barriers to practice and career advancement for lawyers with disabilities not only protects legal employers from potential liability for discriminatory hiring practices and hostile work environment, but also ensures that talented professionals are retained and that a firm maximizes its substantial investment made in recruitment, hiring and training of lawyers. Given that one of the primary causes of disability is aging, it makes sense for law firms to be accessible to all lawyers, staff and clients, regardless of age.

Lawyers with disabilities have a right to expect that their equality and human rights, as guaranteed by the *Canadian Charter of Rights and Freedoms* and by human rights legislation in every Canadian jurisdiction, will be upheld in a meaningful way within the legal profession. Removal of barriers to practice is not just a matter of good economics and policy, it is a fundamental requirement of the Canadian Constitution and of the quasi-constitutional human rights legislation.

2 Legal obligations of employers²

A law firm, as any employer, has obligations to accommodate people with disabilities. People with disabilities in Canada are guaranteed a right to equality under section 15(1) of the *Charter*. In addition, federal and provincial human rights codes extend a statutory guarantee of equality and freedom from discrimination to persons with disabilities in a wide range of activities, including employment. The Supreme Court of Canada has held that these statutory protections are quasi-constitutional and proclaim fundamental public policy that takes precedence over both public legislation and private contract.³ The purpose of these guarantees is to ensure the maximum protection for the dignity and worth of the individual by providing equal opportunities to participate in Canadian society.⁴ At the core of this commitment, in the employment context, is the right of those with disabilities to receive the accommodations necessary, to the point of undue hardship for employers. These protections essentially mandate employers to educate themselves about the needs of people with disabilities so as to remove barriers to their full

² This section is not to be construed as legal advice. Particular problems relating to employment and human rights obligations must be addressed on a fact-specific basis.

³ *Ontario Human Rights Commission and O'Malley v. Simpsons-Sears Ltd.*, [1985] 2 S.C.R. 536.

⁴ *Andrews v. Law Society of British Columbia*, [1989] 1 S.C.R. 143.

participation in the workplace and make the necessary accommodations, short of undue hardship.⁵

In order to justify a failure to accommodate, an employer must show that the undue hardship is real and substantial. The employer has a duty to make adequate efforts to determine what accommodations are possible and to take active, serious and substantial steps to implement those accommodations. Failure to accommodate is not excused on the grounds that it was not intentional; so long as there is a discriminatory result, the employer has a duty to accommodate. This concept of undue hardship presupposes that some hardship will result, but it is only undue hardship that will justify a failure to accommodate.⁶

Accommodations can include provision of adaptive technologies or equipment, alteration of the physical premises, job duties or work schedules or provision of flexible or part-time work. As David Lepofsky notes:⁷

... the duty to accommodate serves to enable individuals to have their qualifications and competence to contribute to the workplace evaluated in a fair and accurate manner. When an employer seeks to determine whether a particular candidate for a job is qualified to do that job, the aim of the exercise is to ascertain as effectively as possible the individual's true capabilities — to identify what kinds of positive contributions this person could make to the workplace. It is vital that such an appraisal be carried out in a fair and accurate manner, both from the perspective of effective business decision-making and from the vantage point of the job applicant.

There have undoubtedly been great advances in removing barriers to employment for people with disabilities. While the duty to accommodate imposes a responsibility on all employers, it must be recognized that the duty produces, not only costs, but also benefits. Employers who creatively accommodate employees with disabilities can gain and retain access to a valuable labour pool and improve productivity by ensuring that employees feel that their dignity and worth is respected. These employers can also access a new client group by making their premises accessible and comfortable for clients with disabilities.

⁵ *British Columbia (Superintendent of Motor Vehicles) v. British Columbia (Council of Human Rights)*, [1999] 3 S.C.R. 868, 181 D.L.R. (4th) 385 (*Grismer*) and *British Columbia (Public Service Relations Commission) v. BCGSEU*, [1999] 3 S.C.R. 3, 176 D.L.R. (4th) 1 (*Meiorin*).

⁶ *Ibid.*

⁷ David Lepofsky, *A Purposive Approach to the Duty to Accommodate Under Canadian Anti-Discrimination Legislation*.

3 Project history

The Law Society's Equity and Diversity Committee has been working for many years to address the long-term goal of developing awareness and effecting change in the legal profession on disability issues. The Disability Research Working Group received approval from the Benchers in 1999 to conduct a pilot study to identify the barriers faced by law students and lawyers with disabilities. In November, 2000 the Working Group concluded this study and produced its first report, *Lawyers with Disabilities: Identifying Barriers to Equality*.⁸ This study appears to have been one of the first attempts to identify systemic barriers to entering the legal profession and practising law.

The Working Group found that law schools have taken discrimination and access issues seriously in recent years and have made significant advances in effectively accommodating law students with disabilities. As a result, there are increasing numbers of persons with disabilities entering the profession. However, it appears that law firms have responded to the increasing inclusion of lawyers with disabilities in a more haphazard fashion, and many lawyers continue to face serious barriers to practice. The Working Group found that:

Upon leaving university and entering the legal profession, lawyers with disabilities face discrimination, prejudice and access barriers that make it very difficult to practise law. Discriminatory practices not only prevent career advancement, but produce such stress that a frequent result is overwork, burn-out and failure in both private firms and government departments. Lawyers with disabilities are seldom kept on after articling.

Finding employment is difficult. Often firms consider it too expensive to accommodate lawyers who have disabilities, and there are very few financial incentives or tax breaks available. If a disability appears to interfere with the economic bottom line, the lawyer is likely to be let go. The common accommodation of working part time is not yet well accepted within the legal profession. Since disclosure of disability generally leads to discrimination, there is a tendency for lawyers to hide their disabilities, or the extent of their disabilities. More than half of the lawyers who participated in this study spoke about how discrimination eventually led to loss of employment, marginalization into solo practice or early retirement.

Although participants in the first phase of the Working Group's study were not specifically asked for recommendations about addressing barriers in legal practice, they did identify a need for resources that could be made available to lawyers with disabilities and suggested some strategies for addressing the barriers.

⁸ The Working Group's first report, *Lawyers with Disabilities: Identifying Barriers to Equality*, is available on the Law Society website at www.lawsociety.bc.ca or by contacting the Law Society office.

4 Senior practitioners forum on lawyers with disabilities

To build on the momentum of the first stage of its study, the Working Group hired a project advocate and a facilitator to conduct research and develop recommendations for removing barriers to the practice of law faced by lawyers with disabilities. The Working Group recognized that the leadership of senior members of the legal profession is critical to the success of any initiative to eliminate barriers to the practice of law. As a component of its research, the Working Group hosted an evening forum with senior lawyers and judges to evaluate recommendations for change and to suggest other strategies.

The forum was held in Vancouver on October 9, 2003, with participants from both Vancouver and Victoria attending. Participants focused on developing solutions and “testing” program proposals. They engaged in lively and constructive discussion, evaluated suggestions for change and developed recommendations for the Law Society and for the CBA. The Working Group was pleased with the recommendations and is optimistic that the proposals will be well received.

The forum was not intended to be the end of the process. Rather, the Working Group hopes it is the first step in an ongoing dialogue with the profession in working towards the goal of reducing barriers to practice for lawyers with disabilities.

The objectives of this initiative were to develop recommendations for:

- raising awareness within the legal community about barriers to practice for lawyers with disabilities;
- assisting in the development of concrete resources and strategies to address these barriers;
- assisting firms in dealing with implementation of these strategies; and
- providing ongoing support for lawyers with disabilities.

The evening forum opened with brief introductions of the project, members of the Working Group and participants. Particular reference was made to the Working Group’s first report: *Lawyers with Disabilities: Identifying Barriers to Equality*. After watching a short video clip from the Bar Association of San Francisco’s film “Breaking Down Barriers,” participants shared an informal dinner, then broke into small groups. The groups reviewed recommendations in a draft discussion paper and generated further recommendations. The forum reconvened to report back to the plenary, discuss recommendations arising from the small group discussions and identify action steps. This report briefly sets out the issues, summarizes the discussion and provides recommendations for presentation to the Law Society and to the legal profession as a whole.

4.1 Summary of issues

As reflected in *Lawyers with Disabilities: Identifying Barriers to Equality*, those lawyers with disabilities who participated in the first phase of the Working Group's study said that they experienced great difficulty in finding and keeping employment.

They noted that legal employers fail to effectively accommodate lawyers with disabilities, primarily because of the economic bottom line that drives the legal profession and the view that accommodation is too expensive. Lawyers reported finding that the disclosure of disability resulted in discrimination. They further reported a pattern of hiding their disabilities if possible and putting up with lack of accommodation, lack of support and even harassment directly related to their disabilities in both law firms and government offices. This strategy was not often successful and commonly resulted in burnout and/or termination of employment, forcing lawyers with disabilities to set up in solo practice or to withdraw from the profession.

Over half of the respondents reported that they had experienced prejudice or been devalued or stigmatized within the legal profession. Some reported embarrassing and distressing experiences involving judges in the courtroom. Respondents were of the view that in the legal profession, as in broader society, ignorance is often the cause of negative attitudes.

Lawyers identified physical barriers relating to mobility, hearing or vision-related disabilities as impediments to moving in and around buildings and in understanding some forms of communication. In addition, attitudinal barriers prevented these lawyers from participating socially and networking during events and were identified as significant barriers to effective practice.

Respondents were also quick to point out, however, the tremendous strides that have been made within the legal profession and within broader society in the last 20 years in accommodating disability. They noted that resources and support are now more available, including supportive people, positive career experiences and progressive changes to improve access.

4.2 Summary of the discussion at the October 9, 2003 forum

At the October 9, 2003 forum, participants in small discussion groups evaluated recommendations for reform in light of three questions:

- Is the recommendation feasible?
- What would be necessary to implement the recommendation?
- What other ideas might fulfil the same objective?

4.2.1 Defining disability and obtaining statistical information

The small groups focused initially on defining disability. Questions were raised as to what constitutes a disability. For example, does disability include chronic illnesses or the aging process? Generally, the consensus was that disability is a self-identified limitation that inhibits capacity to effectively and/or efficiently perform work or that has a significant impact on daily activities. A definition accepted in many employment contexts is that included in the *Employment Equity Act* SC 1995, c. 44 s.3, which is “persons who have long-term or recurring physical, mental, sensory, psychiatric or learning impairment.”⁹ Participants agreed that it is useful to move away from equating disability with the use of a wheelchair and to move towards identifying disability in terms of difficulty with a particular function. In this way, effective means to overcome particular difficulties are more likely to be found.

Forum participants recognized that it may be useful to know the percentage breakdown of different types of disabilities among lawyers so that efforts could be made to target initiatives where the need is greatest. However, this could possibly lead to discrimination against those with targeted disabilities. In the end, most felt it was safer to target disabilities more generally despite the risk of diluting efforts.

4.2.2 Law Society Access and Advisory Committee for Lawyers with Disabilities

Two themes arose over and over again in the literature and in discussion at the forum:

- the need to consult with individual lawyers with disabilities who require accommodation, without presuming to have the answers; and
- the need to engage senior lawyers in implementing solutions.

The fact that lawyers with disabilities do not form a cohesive community was also discussed as a barrier to effectively implementing solutions for change.

Like those participants in the first stage of the Working Group’s study, the 2003 forum participants identified attitudinal barriers as the most significant impediment to the effective practice of law by lawyers with disabilities. Attitudinal barriers can cause lawyers to hide their disabilities and to forestall the possibility of finding effective solutions. Accordingly, implementing an educational process was identified as an imperative strategy. The group recognized that there are challenges to producing and implementing an effective educational process because of the diversity of disabilities. In terms of solutions, “one-size won’t fit all.”

⁹ This definition is, for example, included in the *Persons With Disabilities Equity Policy* (March 2000) of the University of Victoria, Faculty of Law.

4.2.3 Policies and procedures for assisting in removing barriers

Forum participants noted that it will be unhelpful to promote accommodation if lawyers with disabilities are not hired in the first place. It may be helpful to make available a business case for the accommodation of lawyers with disabilities to help firms understand that accommodation is not a detriment to a law firm, but rather may have an economic benefit.

Some participants felt that the most significant issues were at the hiring stage. If law firms get to the stage of wanting to hire a particular person, the accommodation problems will be addressed. It was pointed out, however, that this may not be the case for small firms. They may want to hire someone, but simply be unable to afford a new phone system or whatever is required to fulfil the duty to accommodate. The issue of assisting with funding was discussed and is covered in more depth in section 4.2.5.

Forum participants wondered whether there was a presumption that lawyers with disabilities have a lesser ability to attract clients or that they are not able to do the external things necessary to attract and maintain clients. It was pointed out that almost all lawyers with disabilities would be able to do some of the external activities, just not all of them. In addition, having lawyers with disabilities on staff can help broaden client approval of a firm in the same way as increasing diversity in the legal profession to include other minority groups.

Participants raised the idea of encouraging lawyers with disabilities to serve on Law Society committees, such as through a notice in the *Benchers' Bulletin*. Others raised concern about focusing on people with disabilities in an environment in which it is challenging to get lawyers in general to volunteer for committees. Participants flagged difficulties in not having an accurate count of lawyers with disabilities, and raised the idea of establishing a list. Again, however, participants recognized that fear of discrimination based on disclosure might be an impediment to compiling accurate information.

Participants discussed affirmative action. Some participants supported the concept and would not shy away from it.

There was also discussion about how well lawyers and law firms in general understand their obligations under the *Charter* and the *BC Human Rights Code*. It was acknowledged that there is still some level of ignorance within the legal profession with respect to these obligations. In the view of participants, employers tend to think that intent is important and don't fully understand their obligation to create a safe and inclusive workplace.

4.2.4 Development of a new rule of professional conduct that goes beyond the provisions set out in Chapter 2, Rules 3 through 6 of *the Professional Conduct Handbook*

Forum participants considered the possibility of a new rule of professional conduct that goes beyond the anti-discrimination provisions of Chapter 2, Rules 3 through 6 of the *Professional Conduct Handbook* and extends to best practices in recruitment, hiring and retention. Participants pointed out that all lawyers are already subject to the *Human Rights Code* and that a more explicit rule would be redundant. It was felt that the current rules are probably sufficient as drafted and that their generality may actually assist in allowing for creative responses to accommodation. Participants felt that using a “carrot” rather than a “stick” was a more effective means of changing behaviour.

4.2.5 Funding initiatives

Some forum participants pointed out that economic realities must also be addressed. In theory, everyone agrees that removing barriers to practice for lawyers with disabilities is a good idea, but incentives are needed to persuade the legal profession to accept the perceived risk of accommodating disabilities. Accordingly, it will likely be necessary to find funding to help defray costs of accommodation. It was suggested that the Law Society could create a reserve fund for assisting with accommodations for lawyers with disabilities. In this way, costs would be spread across the profession rather than absorbed by individual firms. Again, it was recognized that there are a spectrum of disabilities, some of which are more readily accommodated than others.

Given the lack of clear agreement as to what constitutes a disability, some participants expressed concern about whether there should be parameters on use of a reserve fund. Others were less concerned, expressing the belief that the Law Society could put a process in place for distribution of funds that would be legitimate and equitable. Participants suggested that the fund could be defined by what kind of accommodations it would finance, rather than the type of disability. For example, the fund might be restricted to assisting with physical accommodations.¹⁰ However some participants thought that, at least in an ideal world, the fund would finance whatever accommodations were required by any condition that was considered a disability. Some participants expressed apprehension about funding accommodations such as reduced hours or felt that this type of initiative might be better addressed by law firms through flexible work arrangements and compensation.

It was questioned whether members would accept paying a fee to fund such an initiative. Participants felt that the key to successfully implementing such a plan would be to sensitize BC lawyers to the fundamental justice of the proposal. It was suggested that

¹⁰ It should be noted that the range of measures that can be considered physical accommodation is broad. The discussion paper on physical barriers that was available at the October 9, 2003 forum is set out in Appendix 2.

such a fund could be started at a modest level and expanded as people have the opportunity to see the positive impact. It was pointed out, however, that it doesn't take long to spend \$100,000 (a significant amount from the point of view of the Law Society) on such things as attendant care or building renovations. A difficulty is that there is likely no limit to the amount of accommodation and support that can be justified.

The demand that would be placed on such a fund is not known. There are likely many lawyers with invisible disabilities. Some participants made a distinction between those coming into the profession and those "fading out" of the profession. Those already in the profession have the ability to create their own stature. If people with disabilities never enter the profession, none of this is even an issue. Participants holding this view felt that the focus ought to be on new lawyers. Others disagreed.

A suggestion was made for a voluntary checkbox on the Law Society fee billing that lawyers could tick to contribute \$100 to the disability fund. A voluntary program could be established more easily and quickly. Concerns were raised that this could be regarded as treating the program as charitable and undermining its credibility. Another suggestion was to simply run the program as a line item in the Law Society budget, in a similar fashion as was done for gender equality and for the Equity Ombudsperson. Some participants suggested enlisting the aid of other organizations, such as private foundations, government and the Law Foundation, among others. There was a suggestion that members of the Working Group take out life insurance policies, with the proceeds to go to a disability fund, and that other lawyers be encouraged to do the same.

It was pointed out that a significant reason that such a fund has not already been established is that nobody has asked, so it was important not to assume there would be resistance. To the extent the Benchers have dealt with disability issues, they have been fairly open.

Participants generally considered that such a fund could be very valuable. However, there were some concerns about how the fund might be used, and a particular concern about not wanting to see it used for minor accommodations. It was recognized that the fund would be under the care and control of the Law Society, so it would be protected from frivolous or inappropriate use. The fund could be established at a modest level initially to determine the demand and best uses.

4.2.6 Mentoring¹¹

Mentoring was suggested as a good way for lawyers to enter the profession and gain recognition. Having disabled students mentored by practising lawyers would perhaps give them some experience and, more importantly, a relationship with lawyers who can promote them. A web-based mentoring program was proposed as a means of encouraging

¹¹ A short discussion paper on mentoring that was available to forum members is attached as Appendix 3.

private mentoring relationships. It was recognized that there are initiatives to develop mentoring programs underway and that it might be possible to broaden the scope of such programs.

Participants also suggested that a clerking program be created for law students or articulated students with disabilities in the Provincial Court. This would serve a need of Provincial Court judges and provide students with disabilities with important and prestigious experience to include on their resumes. The downside is possible resentment from peers, and this would have to be managed.

It was pointed out that mentoring programs have to be officially created and that it is appropriate to target these to minority groups who are not generally well served by informal mentoring. Mentors may tend to take on people whom they identify as being similar to themselves, which doesn't work well for people outside the "old boys network."

4.2.7 Development of a web-based community meeting place

Forum participants agreed that developing a web page where lawyers with disabilities and other interested parties could communicate and identify resources was a good idea, and that the capacity exists between the CBA and the Law Society to implement such a plan. There was some question of who might be best able to host the web page and it was suggested that it could be a joint initiative. Such an initiative could go beyond just a web page to become a more interactive forum such as a listserv, chatroom or intranet. Participants felt that such a web page would provide an extremely valuable resource and be relatively easy to implement, although technical guidance will likely be required in order to determine how to best meet the intended objectives.

4.2.8 Promotional advertising on lawyers with disabilities

Participants did not support advertising as a means of promoting lawyers with disabilities and believed that the Law Society would never have the money to do the kind of advertising campaign necessary to change attitudes. It was agreed that advertising has not been an effective way to change the perceptions of lawyers and there is not enough money to effectively change attitudes. Accordingly, this suggestion did not generate a great deal of discussion and was considered a "non-starter."

4.2.9 Equity and diversity education program

While forum participants were generally in favour of a diversity education program, some thought that such a program would be better referred to as a "sensitization" program. Awareness and sensitivity training were recognized as important. The information must be presented in a manner that is accessible and acceptable to the profession. Participants felt it was important to hear from lawyers with disabilities themselves and to give those in the legal profession a perspective on the actual

experiences of those with disabilities. It was recognized that people with disabilities are perhaps the most expert in identifying and suggesting creative solutions. In addition, training was identified as a means of answering concerns and allaying fears.

Those at the forum also discussed providing training or information for lawyers with disabilities so that they are better able to advocate for and market themselves. The San Francisco Bar Association video “Breaking Down Barriers” was seen as a useful education tool. The video clip viewed at the forum offered an excellent lesson, took very little time and could be a means of bringing a perspective to meetings and boardrooms.

Other suggestions included publishing a regular article in the *Benchers’ Bulletin* or *BarTalk*. The column could include articles from lawyers with disabilities as well as articles from the Working Group and others dealing with disability issues. It was felt that articles that were interesting and informative and that highlighted successes would be well received. A suggestion was made that articles should include those written by people with disabilities who are successful in various kinds of practice.

Members of the judiciary participating in the forum pointed out that the judiciary generally looks after judicial education, but might look to outside sources if these are useful. Judicial education in this area may already be ahead of the rest of the community, although it was acknowledged that there is likely greater focus in the program on litigants than on lawyers.

Participants recognized that this is a long-term initiative. It takes time to overcome attitudes and misapprehensions in a population as large and diverse as the legal profession. Participants suggested that the educational responsibilities of the Equity Ombudsperson could be reviewed to see if there is capacity within the job description to tackle disability issues.

4.2.10 Lobbying to increase structural accommodation in BC courthouses, the Law Society building and other legal institutions

Forum participants shared the belief that structural accommodation was generally being handled quite well. However, government may not be ensuring access for both the public and members of the bar. A courthouse can be accessible to the public, while lawyers in wheelchairs cannot get past the bar in the courtroom, as an example. It was noted that, in the past, accommodation for the public and for litigants has been given the greatest attention and the needs of counsel and other legal professionals may have been overlooked.

Participants generally agreed that, at least in planning for new buildings, consideration of accommodation is always part of the strategy. It is, in fact, required under BC law. The Law Society building and other new facilities are considered examples of good structural accommodation. However, some older structures may still require attention.

It was suggested that the Law Society be a point of contact for registering deficiencies in physical access so that those problems can be brought to the attention of the appropriate people. Again, a web-based “community of lawyers with disabilities” might assist in identifying and overcoming such barriers on an ongoing basis. Participants felt that it might be important for the Law Society to re-affirm its commitment to accommodation and to be reminded of the needs of some of its members in addition to the needs of the public and litigants. The Law Society could then play a role in alerting other bodies or agencies to ensure that appropriate physical accommodations are put in place.

4.2.11 Lobbying the CBA to establish goals and commitments to fair and equal recruitment, hiring, retention, advancement and compensation for lawyers with disabilities in legal employment

Some participants felt that the appropriate focus was on sensitization and altering the community mindset, rather than on specific targets for the recruitment, hiring, retention, advancement and compensation of lawyers with disabilities. They were not sure that targets were feasible, especially in the absence of information about the size of the pool of potential candidates. Others agreed that this was a slow process, but thought that the profession should not shy away from taking difficult steps on initiatives because of the time necessary to complete them. Participants felt that information on the number of lawyers with disabilities would assist in finding measures of success.

It was pointed out that a specific commitment to equality is something that can be marketed by firms. In order to convince law firms, the business case has to be made. (There was some concern raised about the use of the term “equal.” If this implies, for example, that people who are able to work fewer hours have to be paid equally, this could result in hesitancy to hire people who cannot contribute equally. It might be better to focus on “fairness” and “equity.”)

There was insufficient time to fully discuss and debate this suggestion. There was a sense that this was laudable and that firms could be approached to provide a commitment to equal opportunity. More discussion of this approach would be useful.

4.3 Closing summary of forum

As the forum closed, all participants encouraged the Working Group to bring forward proposals to the Benchers who are looking for guidance on the right things to do. It was agreed that some of the suggestions discussed by participants should be developed and brought to the Benchers as concrete proposals. Given that there is some overlap between the work of the CBA and Law Society, there was a consensus that the two organizations should make an effort to work together.

5 Recommendations

The recommendations discussed at the October 9, 2003 forum were developed through consultations with lawyers with disabilities, law schools and other members of the legal profession and through research on successful initiatives from other jurisdictions. The following recommendations emerged from that work and from the forum:

1. Develop a clear definition of the term “disability” for use in Law Society programs.

A definition of “disability” was seen as an important first step in any comprehensive disability policy. Moving away from equating disability with the use of a wheelchair and towards identifying disability in terms of difficulty with particular functions will make it easier to develop creative solutions. Having an agreed-upon definition is also important for targeting funding initiatives.

2. Establish an ongoing Law Society Access and Advisory Committee for Lawyers with Disabilities, expanded from the present Working Group.

This Committee would be responsible for the ongoing monitoring of initiatives on lawyers with disabilities, including the implementation of these recommendations. It would also be responsible for encouraging lawyers with disabilities to run for Bencher positions and to put their names forward for appointment to Law Society committees.

Two themes that arise consistently in the literature and that also emerged in the forum discussions were 1) the need to consult with individual lawyers with disabilities and 2) the need to engage senior lawyers. This proposed committee would be made up of both groups.

3. Develop a business case to endorse and support a greater inclusion of lawyers with disabilities at all levels of the legal profession.

Removing barriers to practice for lawyers with disabilities broadens the pool of qualified practitioners from which law firms can draw. This approach ensures that talented employees are retained and that law firms maximize their investment in recruitment, hiring and training.

It also has the effect of increasing awareness in law firms and accessibility for clients with disabilities. A commitment to hiring, retaining, and promoting lawyers with disabilities is something that can be marketed by law firms.

Reducing barriers to practice for lawyers with disabilities also protects legal employers from potential liability for discriminatory practices and a hostile work environment.

4. Provide to legal employers draft equity and diversity workplace policies respecting lawyers with disabilities.

Model policies would serve as a reference to firms. In order to be effective, these policies must be adapted to meet the unique needs of each firm and its members. A draft model policy is attached as Appendix 4.

5. Create a reserve fund and identify other sources of funding to assist law firms in providing accommodations for lawyers with disabilities.

Possible funding sources for a reserve fund include a Law Society fee charged to lawyers to help spread the cost of accommodation across the profession and reduce the burden on a single firm. Such a fund could be established at a modest level initially to determine the demand and best uses.

The Law Society may be well placed to assist employers and their employees with disabilities more generally. The Law Society could lobby the federal government for tax breaks for employers with employees with disabilities, beyond business expense deductions, to assist businesses in funding accommodation, to assist in job creation and to credit a percentage of wages for employees with disabilities.

6. Establish and support a mentoring program for lawyers with disabilities.

A mentoring program could be modelled on an established, successful program such as the Disabled Lawyering Alliance (DLA): A Community of Lawyers and Law Students with Disabilities (www.disabledlawyering.org). The DLA is an online network of lawyers and law students with disabilities. Its primary mission is to bring together disabled individuals interested in promoting the presence and advancement of people with disabilities within the legal profession by establishing mentoring relationships; developing a professional network of peers; coordinating efforts to respond to current issues facing lawyers and law students with disabilities and advancing the image of lawyers and law students with disabilities within mainstream society and academia.

Although a mentoring program in BC would likely be a web-based program, it should encourage participants to develop and maintain other kinds of relationships. Individual law firms should also be encouraged to design mentoring programs or adapt existing programs to meet the specific needs of lawyers with disabilities.

Clerking programs are another possible source of mentoring relationships. For example, a clerking program for law students or articling students with disabilities in the Provincial Court would provide those students with important experience and relationships.

7. Establish and maintain an online “community meeting place” for lawyers with disabilities where information about resources, approaches, issues and other matters can be raised and discussed.

In recognition that there is little or no sense of community among lawyers with disabilities due to the variety of disabilities and the lack of any formal or informal organization or network, lawyers with disabilities need a central resource to develop a community and track issues. This could be established through an online meeting place, in which the mentoring program would likely be a component.

8. Develop an equity and diversity education program that includes diversity training for the judiciary and the legal profession.

Attitudinal barriers are among the most significant challenges confronting lawyers with disabilities. The need for education or “sensitization” was defined by forum participants as an imperative strategy. Regular articles in the *Benchers’ Bulletin* or *BarTalk* were specific suggestions.

9. Lobby to increase structural accommodation in BC courthouses, the Law Society building and other legal institutions.

Physical barriers to the courts and law offices impede, not only lawyers with disabilities, but also those who come to court as parties, witnesses, prospective jurors, judges, court staff and members of the general public. Canadian citizens have a fundamental common law, statutory and constitutional right to attend and observe court proceedings. Section 2(b) of the *Charter* has been interpreted to include a right to attend and observe court proceedings, a right that is meaningless without access to the courts. Accordingly, the legal profession has an obligation to assist in ensuring that the justice system is accessible to judges, lawyers, jurors, witnesses and members of the public with disabilities.

The Law Society could serve as a point of contact for registering deficiencies in physical access so that problems can be brought to the attention of the appropriate people.

10. Develop a program to have law firms commit to a series of tangible objectives regarding recruitment, hiring, retention, advancement and compensation for lawyers with disabilities.

The Bar Association of San Francisco developed a program, Breaking the Glass Ceiling, to address barriers to practice for women. One of the goals of that program was to have 50 law firms, primarily larger firms, commit to a series of tangible objectives. In a similar manner, the Law Society could establish a goal of having a specific number of law firms commit to a similar series of tangible goals such as to:

- a) have at least 5% of the partners in those firms be lawyers with disabilities by the end of 2010;

- b) have at least one chairperson or managing partner with a disability, either firm-wide or in a branch office, by the end of 2010;
- c) retain lawyers with disabilities at rates proportionate to the percentage of people in Canadian society with disabilities as measured by Statistics Canada by 2008;
- d) embrace the concepts of part-time partners and flexible work schedules;
- e) increase the number of lawyers with disabilities interviewed for associate positions;
- f) increase the number of associates with disabilities on staff by reducing over-work, burn-out and other causes of failure;
- g) remove physical, technological, social and attitudinal barriers to practice; and
- h) include diversity issues in the design of standards and policies that accommodate people with disabilities.

APPENDIX 1

SUGGESTED RECOMMENDATIONS FOR FORUM CONSIDERATION

1. Establish an ongoing Law Society Access and Advisory Committee for Lawyers with Disabilities to:
 - a) assist in the development and implementation of a strategy and action plan to promote equity in hiring and retention of lawyers with disabilities;
 - b) develop a mentoring program for lawyers with disabilities;
 - c) encourage lawyers with disabilities to run for Bencher positions and to put their names forward for appointment to committees of the Law Society;
 - d) offer assistance to the judicial education committee in planning and including disability issues in their education programs;
 - e) recommend programs for improving awareness in the legal profession with respect to disability issues.
2. Develop a policy and procedure for the Law Society with respect to removing barriers to practice for lawyers with disabilities.
3. Develop a rule of professional conduct that goes beyond those set out in Chapter 2 Rules 3 through 6 with respect to anti-discrimination “best practices” in recruiting, hiring, and retention strategies.
4. Provide draft equity and diversity workplace policies to legal employers.
5. Create a reserve fund to be used to assist law firms in providing accommodations for lawyers with disabilities.
6. Develop a Law Society web page as a forum for creating a community of lawyers with disabilities. This page could include such items as access to resources, access to mentors, peer support discussion groups for problem-solving initiatives and access to information relevant to lawyers with disabilities and their employers.
7. Promote advertising that includes lawyers with disabilities to increase public perception and comfort and increase acceptance of lawyers with disabilities in the legal community.
8. Develop an equity and diversity education program that includes diversity training for the judiciary and the legal profession.

9. Lobby to increase structural accommodation in BC courthouses, the Law Society building and other legal institutions.
10. Lobby for the CBA (National and Provincial) to establish goals and commitments to fair and equal recruitment, hiring, retention, advancement and compensation for lawyers with disabilities in legal employment by a set date.

APPENDIX 2

REDUCING PHYSICAL BARRIERS

Reducing physical barriers is sometimes viewed as being as simple as providing wheelchair ramps and accessible washrooms. However, the reality of physical accommodations is that they must meet a wide range of different disabilities. Physical accommodations can include:

- Use of personal attendant at work
- Use of a service animal at work
- Accessible facilities
- Appropriate office placement
- Longer breaks
- Reduction or elimination of physical exertion or workplace stress
- Scheduled periodic rest breaks
- Flexible work schedules
- Flexible use of leave time
- Work from home
- Ergonomic workstations
- Alternative computer access
- Magnifiers or large print materials
- Proper lighting
- Alternative telephone access
- Page turners and book holders
- Parking close to worksite
- Accessible entrances
- Automatic door openers
- Accessible restrooms

People with disabilities have a wide range of abilities and limitations. It is difficult, if not impossible, to generalize accommodation needs. Often the best approach can be asking questions about a person's abilities and limitations to ascertain what accommodation may be required.

Physical barriers to the courts and law offices impede, not only lawyers with disabilities, but also those who come to court as parties, witnesses, prospective jurors, judges, court staff and members of the public. The legal profession has an obligation to assist in ensuring that the justice system is accessible to all people.

How can physical accommodation be ensured, not only in the workplace, but for all extra-curricular work activities and networking opportunities?

APPENDIX 3

ESTABLISHING A MENTORING PROGRAM

As reflected in *Lawyers with Disabilities: Identifying Barriers to Equality*, participants in the first phase of the Working Group's study identified lack of community and isolation as barriers to full participation of lawyers with disabilities in the legal profession. Unlike other equity-seeking groups, there is little or no sense of community among lawyers with disabilities. This is partially due to the variety of disabilities, as well as the lack of any formal or informal organization or network for lawyers with disabilities. Few of the participants were even aware of one another's existence.

However, when asked about positive experiences in their careers, many participants identified mentors and allies. They identified mentors and allies from among other lawyers with disabilities, people involved in equity efforts within the legal community, colleagues and people in the wider disability community.

Here are some key considerations in developing a mentoring program.

Who are the mentees?

Traditionally mentees are thought of as young people at the beginning of their careers. However, peer support is another possibility, as is establishing mentoring relationships when lawyers change career paths or expand into new areas of practice.

How will lawyers and students with disabilities be identified and encouraged to participate? What skills or support do mentees need to allow them to take full advantage of the mentoring opportunity?

Who are the mentors?

Should mentors be practising lawyers with disabilities? How would this be managed in terms of different kinds of disabilities, the potential demands on a limited number of potential mentors and geography? Although these are challenges, they may be worth overcoming, given the importance of providing appropriate role models to lawyers with disabilities.

As an alternative, would lawyers or other advocates with experience dealing with disability issues be suitable mentors? Lawyers who practise in areas of interest to mentees? Or lawyers in a mentee's own law firm?

What skills do mentors need? What kind of training and support will need to be provided?

What are the incentives to participate?

Law firms may encourage and reward participation in a mentoring program as a contribution to the legal community. Or they may see mentoring as an opportunity to recruit and retain employees, enhance the skills of their current employees, attract clients with disabilities (or clients concerned about disability issues) and improve their image in the community.

Will there be training opportunities for mentors? Will mentors have some say in the selection of mentees? Will they have opportunities to interact with other mentors?

How can it be ensured that employers give both mentors and mentees the time and other resources they need to participate effectively?

What type of mentoring would be most effective?

The most obvious approach to mentoring is the one-to-one mentor/mentee relationship. However there are other options. A team of mentors can be assigned to a mentee (or a group of mentees) so that a mentee has an option of who to approach and the mentor does not have to make as much of an individual time commitment.

How will participants be matched with each other? Can different types of mentoring arrangements be made depending on the needs of the mentee?

Another possibility is a network of lawyers with disabilities set up to encourage mentoring without assigning specific mentor/mentee relationships. For example, the Disabled Lawyering Alliance is a US-based listserv of lawyers and law students. Messages can be posted to the entire group, but participants are also encouraged to set up private mentoring relationships.

Will participants meet face to face or by email and telephone? Should there be formal requirements such as regular meetings over a certain period of time or should it be up to the participants? How long will the mentoring relationships last?

Are there ways that existing mentoring programs (for example those established within law firms) can be expanded to better meet the needs of lawyers and students with disabilities?

How will the program be supported?

Will the program be funded by the Law Society, by individual participants, by law firms or through some other arrangement?

How will the program be evaluated? What are the desired outcomes?

APPENDIX 4

MODEL POLICY FOR LAW FIRMS REGARDING LAWYERS WITH DISABILITIES

[DRAFT*]

The Law Society of BC has a longstanding commitment to promoting equality and equity within the legal profession and to providing a supportive environment that advances human rights and affirms the dignity of all persons. The Society has recognized that lawyers with disabilities are members of a historically disadvantaged group. As one of the steps in addressing this disadvantage, the Society promotes the development and adoption of employment policies that remove barriers to retention and career advancement of lawyers with disabilities.

Employers in the legal community, in accordance with Canadian human rights legislation, should begin by reviewing their existing policies to ensure that they do not create barriers to participation by lawyers with disabilities. It is often important to seek outside assistance in undertaking such a review. The Law Society can recommend people and resources that will contribute to a law firm review and development of policies and offers the following model policy, which has been endorsed by the Society, as a guide.

* This policy is published as a draft for further consideration.

Model policy

Purpose

[The Firm] is committed to the fair and equal recruitment, hiring, retention, return to work, advancement and compensation of people with disabilities. We seek to maximize the contribution of persons with disabilities and are committed to alternative work arrangements to accommodate their needs as appropriate.

We review, evaluate and revise our disability policies on a regular basis, and lawyers with disabilities are integrally involved in this process.

Recruitment

[The Firm] actively recruits lawyers with disabilities and consults with disability advocacy groups in law schools in its recruitment efforts.

Interview process

Lawyers (and other staff) involved in interviewing potential candidates at [The Firm] are trained in disability issues. In particular, interviewers respect the privacy of candidates and do not ask about personal health matters that are not related to potential employment. Inquiries about accommodation are only made after a candidate has been given a conditional offer of employment.

All candidates are informed about [The Firm]'s disability policies.

[The Firm] ensures that the interview process itself is accessible to applicants with disabilities. For example, a sign language interpreter or an advocate is permitted to be present at an interview. [The Firm] encourages applicants to state in advance any specific needs or accommodations they may require in order to participate in the interview.

Orientation

[The Firm] ensures that orientation materials for new employees and information about career development and promotional opportunities is communicated and made available to all candidates, including those with disabilities, in a format that ensures that they are fully informed.

Work premises

[The Firm] ensures accessibility to the work premises. This includes both the entrance to and movement around the premises, including toilet and washroom facilities. Signs, manuals, workplace instructions and electronic information is readily accessible to people with visual impairment. Information frequently conveyed by sound (such as fire alarms or ringing telephones) is conveyed, if necessary, by visual cues such as flashing lights, to ensure the safety of people with a hearing impairment.

Disability advocate

[The Firm] has designated a disability advocate who will answer questions about [The Firm]'s disability policies, monitor compliance, coordinate accommodation efforts and respond to complaints. The person designated is a senior lawyer in [The Firm] who has the authority to ensure that [The Firm]'s disability policies are given the profile they require and to make binding decisions on matters of policy or accommodation. This person is trained in disability management.

The name and contact information for [The Firm]'s disability advocate is [Name].

Committees

[The Firm] ensures that lawyers with disabilities are included on all appropriate committees, including the hiring committee, student committee, compensation committee and partnership review committee.

Pro bono cases

[The Firm] makes every effort to include cases dealing with disability issues among its pro bono cases and highlights such cases in its publicity materials. [The Firm] also encourages voluntary participation by its lawyers in disability-related causes and highlights that work when describing the qualifications of those lawyers.

Education and training

[The Firm] conducts educational and training programs for all employees, including non-lawyer staff, regarding disability issues. These programs may be taught by lawyers with disabilities within the firm or by outside consultants, as appropriate. Programs include information about adaptations in the work environment and work schedules that enable employees with disabilities to optimize their effectiveness.

[The Firm] provides opportunities for all employees to raise any questions they have about working with disabled co-workers and clients.

Mentoring

[The Firm] has a mentoring program for those who choose to participate.

Alternative work arrangements for lawyers¹²

[The Firm] makes every reasonable effort to accommodate the needs of lawyers with disabilities. The accommodations may include modification of the job environment to provide access to the place of work, modification of equipment and modification of the job content, working time and work organization. [The Firm]'s alternative work arrangement policy is as follows:

Purpose

[The Firm] recognizes that lawyers should be permitted to work a flexible or reduced work arrangement if possible. In particular, [The Firm] believes that the availability of alternative opportunities is necessary to promote the full participation of lawyers with

¹² Adapted from the Bar Association of San Francisco "Model Policy on Alternative Work Schedules for Attorneys."

disabilities. Additionally, [The Firm] believes that the availability of such alternative arrangements will benefit both [The Firm] and its clients by facilitating the recruitment of new lawyers and the retention of experienced lawyers.

Statement of professional responsibility

[The Firm] expects that a lawyer working in an alternative work arrangement, just as a lawyer working in a more typical office work situation, will be flexible in his or her hours so as to provide quality and timely services to clients consistent with his or her area of practice and level of responsibility. [The Firm] and the lawyer working an alternative work arrangement recognize that a high standard of professionalism and client loyalty must be maintained. Lawyers on an alternative work arrangement are still expected to make a commitment to non-billable activities such as professional and client development, firm administration, recruiting and legal and community activities. If the lawyer is working part time, arrangements may be made to prorate that time commitment to relation to billable hours.

Forms of alternative work arrangements

Numerous creative and flexible work arrangements can be developed to meet the varied requirements of different practice settings and different disabilities. Lawyers and their supervisors should feel free to create the most mutually advantageous arrangement possible. It is important that lawyers on alternative work arrangements perform work commensurate with their experience and skills. Arrangements that promote the competent and efficient performance of the appropriate level of work are encouraged. The following are among the alternative work schedules that will be considered:

- **Flex-time:** A lawyer continues to work a full-time schedule, but has some flexibility to choose when to fulfil work obligations;
- **Part-time:** A lawyer works a reduced schedule;
- **Job sharing:** Two part-time lawyers share one full-time position;
- **Flexi-place, also known as telecommuting:** A lawyer has the option to work at home, in a branch office or in another off-site work setting. The lawyer will be linked to the office by telephone and/or by computers, facsimile machines and voicemail.

When it is feasible, [The Firm] welcomes proposals for sharing of offices, support staff, workload and other applicable arrangements. Other adaptations that will be considered include:

- **Adaptations to the job description:** Eliminating parts of the job that the lawyer is unable to perform and replacing them with other tasks;

- **Physical adaptations:** Modifying the workspace or work equipment to facilitate optimal job performance.

Eligibility

Any lawyer with the firm may apply for an alternative work arrangement. Requests for alternative work arrangements to accommodate a disability will be given priority. A lawyer applying for work with [The Firm] may apply for an alternative work arrangement and such a request will not impact on the decision of whether to hire that person.

Application process

A lawyer requesting an alternative work arrangement should submit a proposal to [The Firm] as far in advance as possible. [The Firm] responds to such requests promptly.

Criteria for acceptance

[The Firm] will grant requests for alternative work arrangements related to a disability if the lawyer is in good standing with [The Firm] and if the request can be reasonably accommodated by the practice group or groups that will be directly affected.

Support of alternative work arrangements

[The Firm] will make every effort to ensure the success of an alternative work arrangement. Other lawyers will be expected to cooperate in matters such as scheduling meetings and communicating with clients. Support staff and other lawyers will be given clear instructions for handling calls when the lawyer on the alternative arrangement is not in the office.

Compensation

- (a) **Salary:** The compensation of associate lawyers on a reduced schedule is determined as follows:
 - An associate lawyer is paid a salary on a pro-rata basis, based on the number of billable and non-billable hours to be worked compared to the number of billable and non-billable hours that the associate would be expected to work if working full time at the firm.
 - If an associate lawyer on a reduced schedule in fact works substantially more or less than the proportional number of hours expected, or substantially more or less than the proportional number of hours actually worked by full-time associate lawyers in [The Firm], the salary paid to the reduced schedule lawyer is adjusted accordingly.

- (b) **Benefits:** [The Firm] provides the same extended health insurance coverage to lawyers on an alternative work arrangement as it does to all other lawyers. All other benefits (including vacation and sick leave) are provided on a prorated basis.

Compensation of partners on a reduced-time schedule is based on similar principles.

Effect on partnership

Working an alternative work arrangement does not effect eligibility of an associate lawyer to be considered for partnership. However, a reduction in the amount, duration and quality of experience as a result of less than full-time practice may extend the time for partnership eligibility.

Evaluation

Each alternative work arrangement is reviewed and evaluated by [The Firm] and the lawyer at least annually. At that time, consideration will be given, if necessary, to compensation or work adjustments required. Such adjustments will be based on an economic analysis of the alternative work arrangement for the period under review.

Returning to work

In addition to being eligible for any other form of alternative work arrangement, lawyers who acquire a disability have the opportunity to test work or obtain experience in all appropriate alternative positions if they are unable to resume their previous work. Lawyers may return to work on a gradual basis when this is deemed appropriate.

Social functions

[The Firm] ensures that social functions are accessible to lawyers with disabilities whenever possible. [The Firm] sponsors and participates in a variety of social activities so that all employees will be able to participate in some of those activities. Failing to participate in social activities does not have a detrimental impact on an employee's promotion, advancement or compensation.

Discrimination

[The Firm] refuses to honour any client request not to have a lawyer with a disability work on his or her file if such a request appears to be made for discriminatory reasons.

Complaint procedure

[The Firm] has a complaint and enforcement procedure for complaints related to any real or perceived bias or discrimination against lawyers with disabilities or for any violation

of this policy. A lawyer or other staff member can make a confidential complaint to a person who is not involved in evaluating that employee. Complaints should be addressed to one of the following people: [Names].

Following such a complaint, [The Firm] conducts a prompt, thorough and impartial investigation, followed by appropriate remedies and disciplinary measures if necessary.