

*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.

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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 programs¹ 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.

¹ 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.²

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**.³

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

² "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.

³ The Task Force report is available at 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 Champion, 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 Sperdakos 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)⁴ 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

⁴ 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).⁵

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

⁵ 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)⁶, 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.⁷ 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

⁶ The EPWG has acted as a liaison to the larger group of ethics and professionalism professors across the country.

⁷ 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.”⁸

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.

⁸ 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.

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

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.⁹

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.

⁹ 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.¹⁰

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

¹⁰

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.¹¹

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

¹¹ 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 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.¹²

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

¹² 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.¹³

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.

¹³ 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.¹⁴

¹⁴ 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.¹⁵

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

¹⁵ Law schools also offer LL.M. programs that are not relevant to the discussion here.

requirements, in accordance with the national requirement.¹⁶

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

¹⁶ 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,¹⁷ 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.

¹⁷ 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**.¹⁸
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.

¹⁸ **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).
- Bencher 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.





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.



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)¹ 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.

¹ 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 bencher, 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.



APPENDIX 3

Canadian Common Law Degree Law School Report Form

Common Law Degree
Implementation Committee

August 2011



Canadian Common Law Degree Law School Report Form

Submitted by:

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

(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.

Signature of Dean or other Administrative Head of the Faculty/School

Name

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;¹⁹

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:

¹⁹ 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):





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>Date</i>	<i>Event</i>	<i>Action by</i>
May 2012	<p>Draft decision is sent to Dean for comment.</p> <p>Dean sends his/her comments/responses, if any, to Staff.</p> <p>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.</p> <p>Committee finalizes decisions.</p>	<p>Staff</p> <p>Dean</p> <p>Staff</p> <p>Committee</p>
June 2012	<p>Committee Final Report is prepared and reviewed.</p> <p>Committee Final Report is sent to Dean by June 30, 2012.</p>	<p>Committee Chair and Staff</p> <p>Committee Chair and Staff</p>
July 2012	<p>Report on 2012 reviews is forwarded to Federation and law societies for information. No website posting because 2012 is a progress report.</p>	<p>Staff</p>

