



Briefing Note: Defensibility in Admission Standards

What are Defensible Admission Standards?

An admission standards regime that is defensible simply means that the standards are logically connected to the requirements of the role – the knowledge, skills and tasks entry-level lawyers and Quebec notaries must possess and be able to perform to practise competently upon admission to the profession.

The process used to assess the competencies should also be defensible; it should be developed in accordance with sound assessment practices that ensure the evaluation is linked to the required knowledge, skill and task competencies. When the requisite process is followed to develop a defensible assessment tool (e.g. written exam, drafting assignment, etc.), the result is a reliable, valid and fair assessment.

Nearly every profession uses defensible credentialing processes for licensure or admission. Defensible admission standards and assessment techniques support professional regulatory bodies in fulfilling their goal to protect the public.

Why is Defensibility in Admission Standards for Legal Professionals Important?

Assessments used to meet regulatory licensure requirements are considered “high stakes” because succeeding in such assessments allows an individual to perform duties as proscribed by professional regulators. High stakes assessment is the use of assessment results to make decisions that have important consequences for individuals. Assessment of candidates for licensure to practise as a legal professional is considered high stakes and must be defensible.¹

Developing a Defensible Admission Standards Regime

The National Competency Profile

To ensure that The National Entry-Level Competency Profile for Lawyers and Quebec Notaries (“National Competency Profile”) was developed in accordance with best practices, the Federation engaged a consultant with expertise in credentialing, Professional Examination Services (ProExam). ProExam guided work on the profile and senior admissions staff from five law societies played a critical role as members of a Technical Advisory Committee (“TAC”).

The TAC drew from the various competency profiles currently in use by law societies across the country as their starting point, creating an outline that organized the competencies into substantive knowledge, skills, and tasks categories. A Competency Development Task Force

¹ *The NOCA Guide to Understanding Credentialing Concepts, National Organization for Competency Assurance, 2005 (accessed July 4, 2013: <http://cvacert.org/documents/CredentialingConcepts-NOCA.pdf>).*



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comprised of 11 practitioners in their first 10 years of practise from every region in the country then fleshed out the profile. Members of the task force drafted a profile intended to reflect the tasks actually performed and the knowledge and skills actually required of general practitioners at the point of admission to the profession.

This draft was then reviewed by 30 practitioners identified and recruited with the assistance of law societies. The draft profile was also reviewed by a small working group of representatives of the Barreau du Québec and the Chambre des notaires du Québec to ensure that it is reflective of the nature of legal practise in Quebec.

In accordance with best practices, the revised draft profile was then validated through a survey of entry-level lawyers and Quebec notaries. Survey respondents were asked to rate each individual competency on two scales: how frequently they performed or used the competency; and how serious the consequences would be if an entry-level practitioner in their area of practise did not possess or was unable to perform the competency. Information was also gathered on the respondents' practise area, practise setting and year of call to the bar. The data from the survey was used to refine the competency profile to ensure that it accurately reflects the competencies required of new practitioners today.

By adhering to best practices in the development of the profile, all law societies can be confident that the National Competency Profile approved by the Council of the Federation and adopted by 13 law societies, reflects the legal knowledge, skills, and tasks that new members of the profession actually require when they begin the practise of law. This is an example of a defensible process.

Assessing the Competencies in the National Competency Profile

The National Competency Profile will be used to develop the blueprint for the testing of the competencies. ProExam and the TAC, which was expanded from five to seven members for this phase of the project, have been working together to identify a range of possible assessment options using best practices.

The goal is to arrive at a defensible credentialing assessment strategy that tests the competencies set out in the National Competency Profile. The focus is on having candidates demonstrate that they have the knowledge and skills and can perform the tasks reflected in the National Competency Profile. The application of knowledge “on the job” speaks to the core mission of legal regulators: public protection.

The National Suitability to Practise (Good Character) Standard

The Council of the Federation identified two goals for the first phase of the National Admission Standards Project: (i) a national profile of the competencies required upon entry to the profession; and (ii) a common standard for ensuring that applicants meet the requirement to be of good character.

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Applicants for admission to the legal profession across Canada are required to “be of good character”, yet there is no nationally agreed upon statement of exactly what an applicant must demonstrate to meet the requirement. To this end, a Good Character Working Group comprised of law society policy and credentialing counsel and Federation staff have consulted broadly and have identified behaviours that are required of applicants who will become members of the legal profession to demonstrate ‘suitability’ to practise law. The drafting of a common suitability to practise (good character) standard is intended to ensure that the requirements are clearly articulated and defensible and that the process of assessing candidates is defensible, consistent and fair. A National Suitability to Practise Standard consultation paper was provided to law societies and other interested stakeholders in the summer, 2013. The feedback from stakeholders will facilitate the development of a final national standard on good character/ suitability to practise.

Engaging with Law Societies on Options for Assessment

The Technical Advisory Committee and ProExam are engaged in a process to help identify a range of options for assessing the competencies set out in the National Competency Profile. The Federation will soon meet with law societies to discuss the implications of the assessment methods proposed, including the implications for existing training programs. The Federation will look to Law Society elected leaders, CEOs and senior staff to consider the options with a view to developing a nation-wide consensus. Engagement with law societies will occur in the fall 2013 and early winter 2014. Our goal is to arrive at a consensus on a preferred approach to assessment of the competencies by the summer or fall of 2014.

Defensible Admission Standards and the Public Protection Mandate

Public protection is the core business of Canada’s law societies. There is growing recognition in the regulated professions that evaluations required of professionals must be defensible and meet generally accepted psychometric standards in order to satisfy the regulator’s public protection mandate.