



Federation of
Law Societies
of Canada

Fédération des ordres
professionnels de juristes
du Canada

Discussion Paper National Requirement Review

Issued June 26, 2023

v3

Table of Contents

Executive Summary	3
Introduction	9
Background on the National Requirement	11
Approach to Identifying Issues.....	12
Overview of Issues	13
Mode of Study	14
Experiential Learning.....	18
Skills Competencies	21
Call to Action 28.....	24
Ethics and Professionalism	29
Substantive Legal Knowledge	31
Encouraging Innovation	32
Wellness	33
Request for Feedback.....	34
Appendix A	35
Appendix B	42
Appendix C	43
Appendix D	45





Executive Summary

1. The National Requirement Review Committee (“Committee”) of the Federation of Law Societies of Canada (the “Federation”) is engaged in a review of the [National Requirement](#). The National Requirement is the standard that specifies the knowledge and skills graduates of Canadian common law programs and internationally trained lawyers and law graduates must acquire to be admitted to bar admission programs in the Canadian common law jurisdictions. It also applies to applications for new Canadian common law degree programs. It is subject to review at least every 5 years.
2. This Executive Summary provides the highlights of the Committee’s June 2023 Discussion Paper, which describes the issues the Committee has considered and seeks input on options and preliminary proposals for amendments to the National Requirement. The deadline for input is October 16, 2023, either in writing or through discussion in a scheduled meeting with the Committee.
3. The Committee is comprised of members of the Council of the Federation, law society senior staff, and members of the legal academy. The Committee was structured to ensure substantial representation from both the decanal and teaching ranks. More than half the members of the Committee are members of the academy (five members) and of those three are current or former Deans and two are Indigenous legal academics.
4. The Committee has engaged in extensive outreach to date including:
 - communiqués to a wide range of individuals and organizations, in September 2022 and February 2023, summarizing the initiative, the status of the work, requesting input and inviting comments in writing or to contact the Committee to schedule a meeting;
 - meetings with the Canadian Association of Law Teachers in March 2023 and May 2023;
 - meetings with the Council of Canadian Law Deans in March 2023 and May 2023;
 - meeting in May 2023 with the Association for Canadian Clinical Legal Education; and
 - numerous meetings through April 2023 and May 2023 with Indigenous groups and individuals in connection with Call to Action 28.
5. To identify the priority issues for this review, the Committee considered the list of emerging issues highlighted by the previous National Review Committee in 2015, input received in response to the September 2022 communiqué, and prominent issues in the current environment.

6. It became clear from discussions within the Committee and with external contributors that there is considerable interest in a forum, in between reviews of the National Requirement, to explore in more depth the concept of the “continuum of legal education” and the potential of competency-based education; to examine collaboratively the role of each actor in legal education and the right stage in the lawyer’s education and career to build and advance required knowledge and skills.

7. In this review, the issues considered by the Committee, and which give rise to the options and preliminary proposals addressed in the Discussion Paper, include:

- i) Mode of study
- ii) Experiential Learning
- iii) Skills Competencies
- iv) Call to Action 28
- v) Ethics and Professionalism
- vi) Substantive Areas of Knowledge
- vii) Encouraging Innovation
- viii) Wellness

Mode of Study

8. In the Discussion Paper, the Committee describes two options, with an explanation of the reasoning underlying each option.

- i) maintain the current requirement for in-person instruction of the equivalent of two years, i.e. 60 credits of 90 (with amendments to clarify the current wording); or
- ii) reduce the requirement for in-person instruction to the equivalent of one year, i.e. 30 credits of 90, and add the requirement that another 30 credits be offered through either in-person instruction or interactive online instruction.

9. With either option, the Committee proposes to add definitions of “in-person instruction”, “interactive online instruction”, “distance learning” and “credit” to the National Requirement.

Experiential Learning

10. Underlying the National Requirement is the principle that foundations for the skills and knowledge needed by an applicant to a bar admission program should be established in law school. In the Committee’s view, that foundation should include some practical experience. The Committee puts forward in the Discussion Paper a preliminary proposal requiring law schools to make experiential learning opportunities available, whether elective or mandatory, that are integrated into the curriculum. Examples are offered, including simulations of practical skills, moot court, trial advocacy courses, clinics and Indigenous law camps.



Skill Competencies

11. Based on several factors, the Committee concluded that the main skills necessary for practice that are missing from the National Requirement are: i) inter-personal/professional communication skills; ii) client relationship skills; and iii) practice management/ file management skills.

12. The National Requirement addresses what an applicant must demonstrate for entry to a bar admission program, not for entry into the profession, with law school being just the first step in career-long learning. As such, the Committee also turned its mind to whether it is appropriate to lay the building blocks for these skills in law school, or if that training is better suited to a bar admission program.

13. The Committee concluded that the traditional law school model (most common in Canada) is not the right place to teach practice/file management skills. That does not mean those skills are a low priority; it means that, in the Committee's view, they may be more effectively and appropriately taught in a bar admissions program or during articling. The Committee also concluded that an adequate base for client relationship skills is already included in the Ethics and Professionalism and Skills Competencies sections of the National Requirement, to be subsequently built on through bar admission programs and continuing professional development.

14. The Committee came to the view that the building blocks for inter-personal and professional communication skills should and could be laid in law school. The Committee offers a preliminary proposal in the Discussion Paper that two new provisions be added to the National Requirement to address these skills:

- i) under the Oral and Written Communications skills competency, an additional requirement that “the applicant must have demonstrated the ability to communicate and interact with other participants in the justice system effectively and professionally”; and
- ii) under the Academic Program, an additional requirement that “the academic program offers students opportunities, integrated into the curriculum, to collaborate and work in teams.”

Call to Action 28

15. Based on its research and input received to date, the Committee proposes in its Discussion Paper the following amendments to the National Requirement, which focus on integrating the content throughout the curriculum and which permit, but do not prescribe, a mandatory course:



- i) Add reference to “Indigenous legal orders, issues, perspectives and contexts” in the introduction to the Substantive Legal Knowledge section:
“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, including Indigenous legal orders, issues, perspectives and contexts.”
- ii) Add reference to Indigenous legal orders under Foundations of Law in the Substantive Legal Knowledge section, i.e. understanding of:
“a. principles of common law and equity; b. Indigenous legal orders; c. the process of statutory construction and analysis; and d. the administration of the law in Canada.”
- iii) Amend description of Public Law of Canada as follows:
“The applicant must have an understanding of the following 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~~ the constitutional rights of Aboriginal peoples under section 35 of the Constitution Act, 1982 and Parliament’s legislative authority over “Indians and lands reserved for them” under section 91(24) of the Constitution Act, 1867; b. Canadian criminal law, including as it relates to Indigenous peoples; and c. the principles of Canadian administrative law, including as it relates to Indigenous peoples.”
- iv) Amend description of Private Law Principles as follows:
“The applicant must demonstrate an understanding of the following principles that apply to private relationships, to include Indigenous legal contexts and content, including: a. contracts; b. torts; and c. property law.”
- v) Add a fourth category of Substantive Legal Knowledge, entitled “Indigenous Law and Legal Orders”:
“The applicant must demonstrate an understanding of: a. the sources and authorities of Indigenous law and legal orders; b. Indigenous legal theories; and c. Indigenous legal methodologies.”
- vi) Add an additional clause in the Academic Program section (section C.1):
“The academic program demonstrates integration of Indigenous legal issues and perspectives, where applicable, throughout the curriculum.”



- vii) Add reference to ethical duties related to Indigenous peoples to the Ethics and Professionalism section (see below).

Ethics and Professionalism

16. The Committee offers a preliminary proposal in its Discussion Paper for two additions to the Ethics and Professionalism section of the National Requirement:

- i) high level reference to the Discrimination and Harassment provisions in the Model Code, as follows:
“duties relating to discrimination and harassment pertaining to colleagues, employees, clients or other persons, including the unique challenges experienced by Indigenous peoples”; and
- ii) high level reference to the anticipated amendments to the Model Code of Professional Conduct to address Call to Action 27 (which mirrors CTA 28, including content in intercultural competency, conflict resolution, human rights, and anti-racism), as follows: *“duties relating to Indigenous peoples in Canada”*.

Substantive Legal Knowledge

17. The Committee proposes that this topic be included in a forum discussion on the continuum of education and competency-based learning, following this review, and also be considered as a possible priority issue on the next review.

Encouraging Innovation

18. The Committee proposes recommending to the Council of the Federation that the authority of the Canadian Common Law Program Approval Committee be expanded to allow consideration of proposals for law school programs that do not fully comply with the National Requirement, but which will:

- i) enhance access to legal education or advance innovation in legal education; and
- ii) result in the acquisition of the skills and substantive knowledge competencies mandated by the National Requirement.

19. Such programs would need to be subsequently approved by the Council of the Federation, and each of the individual law societies, to ensure that graduates are eligible for admission to all bar admission programs.



Wellness

20. The Committee proposes for discussion:

- i) that the Approval Committee be asked to consider critically the questions posed in the annual law school report form regarding wellness, with a view to eliciting information, not just about available resources, but also about the dissemination of information to and discussions with students about wellness challenges in the profession; and
- ii) that the Committee recommend to the Council of the Federation that a forum be established, including law societies, law schools and law student representatives, to consider the wellness challenges faced by law students and young lawyers and to develop tools to address them.

21. The Committee looks forward to receiving feedback in response to the Discussion Paper, which will serve to inform and strengthen the result. All of the options and preliminary proposals set out are open to discussion and modification. Please provide written comments to consultations@flsc.ca by October 16, 2023 or request, by September 8, 2023, a meeting with the Committee to discuss the issues.





Introduction

1. The National Requirement Review Committee (“Committee”) of the Federation of Law Societies of Canada (the “Federation”) is engaged in a review of the National Requirement.¹ The National Requirement is the standard that specifies the knowledge and skills graduates of Canadian common law programs and internationally trained lawyers and law graduates must acquire to be admitted to bar admission programs in the Canadian common law jurisdictions. It also applies to applications for new Canadian common law degree programs.

2. The Federation is the national association of the 14 law societies mandated by the provinces and territories to regulate Canada’s legal profession in the public interest. Its roles include facilitating the sharing of information on important trends and issues, coordinating the development of national standards and the harmonization of law society rules and procedures, and undertaking national initiatives on behalf of law societies.

3. The National Requirement is subject to review at least every 5 years. The Council of the Federation established the Committee in late 2021 with a mandate to conduct a comprehensive review of the National Requirement and the process for assessing compliance with the standard.² The review was initially scheduled for completion at the end of 2022; the deadline was extended for one year to allow more time for engagement and consultation.

4. The Terms of Reference for the Committee specify that the review include “robust consultation with key stakeholders including law societies, the Council of Canadian Law Deans and other representatives of the legal academy”, and consider changes in legal education and the practice of law since the National Requirement was developed, the work of the National Committee on Accreditation (“NCA”) Assessment Modernization Committee, and applicable fair access to regulated professions legislation.³

5. The Committee is chaired by Jacqueline Horvat, Federation Vice-President and President-elect, and is comprised of members of the Council of the Federation, law society senior staff, and members of the legal academy, as follows:

- Priya Bhatia (Executive Director, Professional Development & Competence, Law Society of Ontario)
- Adam Dodek (Professor and former Dean, University of Ottawa, Faculty of Common Law)
- Scott Franks (Assistant Professor, Lincoln Alexander School of Law, Toronto Metropolitan University)

¹ National Requirement, January 1, 2018, [online here](#).

² Terms of Reference are found in Appendix D. The Federation Canadian Common Law Program Approval Committee will consider compliance and operational issues in the coming months. Those issues are not included in this consultation.

³ The NCA Assessment Modernization Committee is developing a competency profile for NCA candidates. It will be consistent with the National Requirement, although more detailed for the purpose of developing assessment tools. The Committee has been kept apprised of the progress of this work.

- Brook Greenberg (National Wellness Study Steering Committee member; Council of the Federation member nominated by the Law Society of British Columbia)
- Ian Holloway (Canadian Common Law Program Approval Committee member; Dean, Faculty of Law, University of Calgary)
- Christian Hurley (National Committee on Accreditation member; Director of Legal Education, Law Society of Newfoundland and Labrador)
- Erin Kleisinger (Chair, Canadian Common Law Program Approval Committee; Council of the Federation member nominated by the Law Society of Saskatchewan)
- Sébastien Lebel-Grenier (Professor and former Dean, Université de Sherbrooke, Faculté de droit; effective July 1, 2023, Principal and Vice-Chancellor, Bishop's University)
- Tracey Lindberg (Professor, University of Victoria, Faculty of Law)
- Pinder Cheema (former Chair NCA, former Council member nominated by the Law Society of British Columbia) was a member of the Committee from its inception in 2021 until December 2022.

6. Recognizing the importance of the review to members of the legal academy, the Committee was structured to ensure substantial representation from both the decanal and teaching ranks. More than half the members of the Committee are members of the academy (five members) and of those three are current or former Deans and two are Indigenous legal academics.

7. The Committee has been committed to a transparent and collaborative process from the start. In this first phase of the review, the Committee has engaged in extensive outreach including:

- communiqués to a wide range of individuals and organizations, in September 2022 and February 2023 (recipients listed in Appendix B and contributors in footnote),⁴ summarizing the initiative, the status of the work, requesting input and inviting comments in writing or to contact the Committee to schedule a meeting;
- meetings with the Canadian Association of Law Teachers in March 2023 and May 2023;
- meetings with the Council of Canadian Law Deans in March 2023 and May 2023;
- meeting in May 2023 with the Association for Canadian Clinical Legal Education; and
- meetings with more than 20 Indigenous groups and individuals through April 2023 and May 2023 in connection with Call to Action 28 (see details in Appendix C).

⁴ See online, [September 2022](#) and [February 2023](#) communiqués. Written feedback was received in fall 2022 from the Canadian Bar Association, Canadian Association of Law Teachers, individual law instructors/professors (Nicholas Bala, Deanne Sowter and Robert Flannigan), Canadian Association for Legal Ethics, Association for Canadian Clinical Legal Education, National Association of Women and the Law and Luke's Place, Roundtable for the Legal Education Continuum, Law21, the Federation of Ontario Law Associations, the Toronto Lawyers Association, and the Family Lawyers Association.



8. The Committee has developed, through research, deliberation and engagement with interested individuals and organizations, options for discussion and, on some topics, preliminary proposals on which it now seeks feedback. It is important to emphasize that the Committee is relying on receiving meaningful input through this outreach to inform and complete its work, and to achieve a satisfactory result. The Committee will finalize its proposals, taking feedback received by October 16, 2023 into account, and will then submit its recommendations to the Council of the Federation.

Background on the National Requirement

9. The National Requirement, developed by the Task Force on the Canadian Common Law Degree (“Task Force”), was adopted by the Council of the Federation in 2009 and approved by Canada’s law societies in 2010.

10. Two primary factors led to the development of the National Requirement: requests for approvals of new law schools and the adoption of fair access to regulated professions legislation in several provinces. Fair access legislation requires regulatory authorities to have transparent, objective, impartial, and fair admission requirements for both domestically and internationally trained applicants.

11. The National Requirement specifies the skills and competencies required of both domestically and internationally trained graduates to be eligible for bar admission programs and establishes criteria for assessing proposals for new law school programs in Canada.

12. The NCA policies for assessment of internationally trained lawyers and graduates for eligibility to bar admission programs are based on and compliant with the National Requirement, although they are more detailed than the National Requirement in some respects for the purpose of developing assessment tools.

13. Following approval in 2010, recommendations from the Common Law Degree Implementation Committee (“Implementation Committee”) led to some refinement of the National Requirement, the development of a process for assessing compliance, and the stipulation that the National Requirement be reviewed at least every 5 years.⁵ The National Requirement was amended accordingly in 2011 and approved in 2012.

14. The Council of the Federation established the Canadian Common Law Program Approval Committee (“Approval Committee”) in 2012, with a mandate to assess compliance with the National Requirement. Although the National Requirement did not come into force until 2015, Canadian common law programs were required to begin submitting annual reports to the Federation in 2012 detailing their compliance. The intention was to give the Approval Committee

⁵ [Task Force on the Canadian Common Law Degree](#), Final Report (2009); [Common Law Degree Implementation Committee](#), Final Report (2011)



time to work with the law schools to ensure that their programs would meet the National Requirement when it came into force.⁶

15. In 2015 an early review of the National Requirement commenced, primarily to consider whether a non-discrimination provision should be added to the National Requirement. As the National Requirement had just come into force, this did not include a comprehensive review of the National Requirement itself and resulted in only two amendments.⁷ The review committee at that time identified emerging issues that might be considered on a subsequent review.⁸ The revised National Requirement was released on January 1, 2018.⁹

16. In determining whether a program meets the National Requirement, the Canadian Common Law Program Approval Committee relies on the information provided by the law school and confirmed by the Dean; there are no site visits. The annual review is an iterative process that ensures that, where appropriate, efforts are made to resolve any issues before the Approval Committee determines whether a program is compliant. Where there are concerns or deficiencies, programs are given an opportunity to resolve them.

17. Since the approval process started in 2015, new programs have been approved at Université de Montréal (2013), Thompson Rivers University (2014), Lakehead University (2016), Université de Sherbrooke (2012-2015, 2016), and Nunavut Arctic College with the University of Saskatchewan (2021). Prospective programs that will, if implemented as proposed, meet the National Requirement are granted preliminary approval and are eligible to apply for full approval once they produce their first graduates.

Approach to Identifying Issues

18. To identify the priority issues for this review, the Committee considered the list of emerging issues from the 2015 National Requirement review, input received in fall 2022 in response to the September 2022 communiqué, and prominent issues in the current environment. While the Committee undertook a comprehensive review in accordance with its mandate, its research, analysis and the input from contributors have led the Committee to propose, at this preliminary stage, only modest changes to the National Requirement (other than changes needed to address Call to Action 28).

⁶ Please note that any changes to the National Requirement from the current review will be followed by a sufficient period of transition to allow the law schools to adjust.

⁷ Deletion of “legal and fiduciary concepts in commercial relationships” from the list of required private law principles set out in section B, Competency Requirements Paragraph 3.3(b); and removal of the word “presumptively,” from paragraph 1.1 of section C, Academic Program so that the provision would read, “*The law school’s academic program for the study of law consists of three full-time academic years or equivalent which is 90 course credits.*” See [National Requirement Review Committee Final Report](#), June 2017. Note that the 2015-17 review was prompted in part by an application for a new law school program from Trinity Western University. The issue which arose as a result of that application (whether the National Requirement should include a non-discrimination provision) was deferred by the Council of the Federation.

⁸ National Requirement Review Committee Final Report, June 2017, supra 7, pp. 18-20.

⁹ National Requirement, supra 1 and in Appendix A with proposed amendments highlighted.



19. However, it became clear from discussions within the Committee and with external contributors that there is considerable interest in a forum, in between reviews of the National Requirement, to explore in more depth the concept of the “continuum of legal education” and the potential of competency-based education; to examine collaboratively the role of each actor in legal education and the right stage in the lawyer’s education and career to build and advance required knowledge and skills.

20. There appears to be consensus that the foundations for essential skills and knowledge for entry to practice should be established in law school and then further developed through bar admission programs and continuing legal education. However, the details of that continuum of legal education, and the necessary coordination between the various actors in legal education to achieve this goal, require more work outside of the National Requirement review process.

21. In its 2017 Final Report, the committee that undertook the first review of the National Requirement identified the establishment of “a forum for discussing emerging issues and fostering collaboration and cooperation between the regulators and the legal academy and other justice system stakeholders” as an emerging issue for later consideration.¹⁰ Subsequently, the Federation and the Council of Canadian Law Deans established a joint working group focused on issues related to Calls to Action 27 and 28 from the Truth and Reconciliation Commission Report.

22. The Committee believes that additional steps can and should be taken, following this National Requirement review, to foster further collaboration on ongoing related issues. Discussions with the Council of Canadian Law Deans, discussions with and written submissions from the Canadian Association of Law Teachers and the Association for Canadian Clinical Legal Education, and written submissions from the Roundtable for the Legal Education Continuum, have confirmed support for this approach.

Overview of Issues

23. In accordance with its mandate and informed by ongoing dialogue with interested groups and individuals, the issues considered by the Committee, and which give rise to the options and preliminary proposals for discussion addressed in this paper, are as follows:

- i) Mode of study
- ii) Experiential Learning
- iii) Skills Competencies
- iv) Call to Action 28
- v) Ethics and Professionalism
- vi) Substantive Areas of Knowledge
- vii) Encouraging Innovation
- viii) Wellness

¹⁰ Supra 8



24. The Committee’s work on each issue has included research, extensive discussion, and reflection on the input received in writing and in meetings.
25. Also underpinning the Committee’s work were several concepts:
- i) the National Requirement establishes the essential requirements to ensure that law schools adequately prepare graduates for bar admission programs;
 - ii) the standard was initially based, in large part, on what law schools were already providing, and was intended to be re-examined regularly and to evolve;
 - iii) it is a minimum standard that most law schools strive to and succeed in surpassing in diverse and unique ways; and
 - iv) law school applicants benefit from a variety of programming options.
26. The Committee sets out below options and preliminary proposals on these issues, for discussion, based on its work to date which has included careful consideration of the input received so far. The Committee looks forward to receiving further feedback in response to this Discussion Paper, which will serve to inform and strengthen the result. All of the options and preliminary proposals are subject to modification based on that feedback.

Mode of Study

27. Mode of study refers to how the curriculum is taught: i) in-person; ii) online, with opportunities for direct, synchronous interaction between instructors and students; or iii) distance learning with no face-to-face interaction using asynchronous tools such as recorded video or email.¹¹
28. The National Requirement currently stipulates that “*the course of study must consist primarily of in-person instruction and learning and/or instruction and learning that involves direct interaction between instructor and students*”.¹² The Task Force made clear in its 2009 report that the word “primarily” was intentionally used to ensure there was flexibility in curriculum design and room for innovation.¹³
29. The Implementation Committee interpreted the word “primarily” to mean that “a minimum of two-thirds of instruction over the course of the law degree program must be face-to-face conducted with the instructor and students in the same classroom” and recommended that this requirement be re-examined as legal education and delivery methods evolve.¹⁴
30. The Implementation Committee also offered these comments on the importance of in-person instruction:

“The practice of law is an interpersonal endeavour. Problems are solved through interactions with others: clients, lawyers, witnesses, office staff, judges, and

¹¹ Definitions used by the Committee are those in the NCA Policy Manual, section 1.3, online [here](#)

¹² National Requirement, s. C 1.2, supra 1

¹³ Supra 5, p. 41

¹⁴ Supra 5, pp. 21-22



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.”¹⁵

31. Technologies supporting online learning (as well as the delivery of legal services) have advanced in the decade since the National Requirement was developed, and then were accelerated by the demands of the pandemic. The effectiveness of these technologies in delivering the curriculum and meeting the objectives of the National Requirement needs to be assessed, along with associated benefits and challenges. The Committee considered available literature and studies on the topic but concluded that there is not yet enough evidence, post-pandemic, to come to a clear finding.¹⁶ The Committee also considered the annual reports of the law schools to the Approval Committee describing their experiences with online learning,¹⁷ input received from external contributors, and approaches in other jurisdictions.¹⁸

32. Apart from the question of the right balance between in-person and online learning, the meaning and wording of the current requirement needs clarification. Sources of potential uncertainty include:

- i) the use of “and/or” in the current wording suggests that it is sufficient for the course of study to consist “primarily” of online synchronous learning;¹⁹
- ii) as noted above, the Implementation Committee confirmed that this wording should be interpreted as requiring two-thirds in-person instruction, although the wording in the National Requirement has not been revised to reflect that interpretation;²⁰

¹⁵ Supra 5, p. 22

¹⁶ Including, but not limited to: Murchison, Jochelson, Ireland, Ciyiltepe and Koulack, *Remote Learning in Law School During the Pandemic: A Canadian Survey*, (2022) 8 CJCL 148, online [here](#); Hodges et al, “*The Difference Between Emergency Remote Teaching and Online Learning*” (March 27, 2020) Educause Review, online [here](#); *Distance Learning in Legal Education* (The Working Group for Distance Learning, Harvard Law School Program on the Legal Profession), online [here](#); Harrison, “*Technology in Legal Education and Practice: Then, Now, and Next*”, *Journal of Science & Technology Law* (Syracuse), March 29, 2021, online [here](#); Irshad and Divya, “*Incorporating Technology in Every Aspect of Legal Education*”, *International Journal of Legal Science and Innovation* (2020, 2:2), online [here](#); David Thomson, “*Elements of Effective Online Instruction in Law*” (2021) 65 St Louis U LJ 703, online [here](#); Yvonne M. Dutton & Margaret Ryznar, “*Law School Pedagogy Post-Pandemic: Harnessing the Benefits of Online Teaching*” (2021) 70 J Legal Educ 252, online [here](#); Yvonne M. Dutton & Seema Mohapatra, “*COVID-19 and Law Teaching: Guidance on Developing an Asynchronous Online Course for Law Students*” (2021) 65 St Louis U LJ 471, online [here](#).

¹⁷ Comments on this topic from law school reports to the Approval Committee were summarized for the Committee on an anonymous basis. Considerable support was expressed by law schools for continuing to deliver the curriculum primarily in-person, while using the technology they have invested in to supplement in-person instruction (i.e., guest lecturers, more frequent online interactions and evaluations with instructors, recorded substantive lectures etc.)

¹⁸ Most recently, the arm of the American Bar Association that accredits law schools voted on May 12, 2023 to increase its limit on distance education courses from one-third of a student’s total credits to half. It also eliminated the rule that students take no more than 10 credit hours of distance education classes during their first year of law school. See article online [here](#); ABA Standards and Rules of Procedure for Approval of Law Schools 2022-23, online [here](#), standards 306, 311; and [April 26/23 ABA memo](#) regarding the changes.

¹⁹ National Requirement, supra 1

²⁰ Supra 5, pp. 21-22



- iii) the NCA requires that two-thirds of the instruction in an applicant's law degree be in-person or involve direct interaction between instructor and students (i.e. synchronous online instruction), however a course that uses interactive online instruction must be part of an overall law program that consists of a minimum of one year of in-person instruction (effectively making one year of in-person instruction the minimum requirement);²¹ and
- iv) when this provision was introduced by the NCA, in response to emergency remote learning implemented in March 2020, the Approval Committee began applying the same standard in its assessment of law school programs (prior to 2020, a minimum of two years in-person instruction was required; for a short period in 2020-21 a 50% rule was applied).

33. Through its work, including engagement with external contributors, the Committee has identified two different options on which it is seeking input (of course, the Committee is also interested in any other proposals presented, beyond these options):

- i) maintain current (i.e. return to pre-pandemic) requirement for in-person instruction of the equivalent of two years, i.e. 60 credits; or
- ii) reduce the requirement for in-person instruction to the equivalent of one year, i.e. 30 credits, and add the requirement that another 30 credits be offered through either in-person instruction or interactive online instruction.

34. If the first option were adopted, the existing requirement would be retained, as interpreted by the Implementation Committee, of the equivalent of two years (60 credits) in-person instruction. Reasons discussed by the Committee, and with external contributors, for retaining the two year in-person requirement include:

- i) insufficiency of objective evidence, to date, of the effectiveness of online legal education;
- ii) observed negative impact on wellness of online learning;
- iii) importance of in-person learning for development of professional communication skills and networking with peers;
- iv) availability of other, more effective, methods of enhancing access to legal education (e.g., in-person learning on the land, adjustment of admission requirements, financial support etc.); and
- v) the potential for the 'sandbox', discussed further below, to allow divergence from mode of study requirements in order to promote innovation or improve access to legal education.

35. As noted above, even if the essential requirement is not changed, the Committee has concluded that there is merit in clarifying the mode of study provision, as illustrated in the following amended provision.

²¹ See National Committee on Accreditation, Policy Manual, supra 11, section 7.2



C.1

1.2 The course of study must include at least 60 credits (out of 90) of in-person instruction in a three-year degree. The remaining 30 credits may consist of in-person instruction, interactive online instruction or distance learning. A blend of the modes of delivery can be integrated throughout the three-year degree to suit the goals of the program.

36. The Committee is also interested in receiving feedback, on whether, with this option, additional direction should be provided in the National Requirement on the mode of study for the remaining 30 credits, particularly the division between interactive online learning and distance learning, or whether it should be left open to law schools to determine, as written above.

37. The other option identified would reduce the minimum in-person learning requirement to 30 credits (the equivalent of one year). The Committee would propose revisions to the wording to effect the following changes: i) mandate a minimum of 30 credits of a 90 credit program be taught in-person; ii) of the remaining 60 credits, at least 30 credits be delivered either in-person or through interactive (i.e., synchronous) online instruction; and iii) the remaining 30 credits be provided through in-person instruction, interactive online instruction, or distance learning.

38. This approach would be consistent with current NCA policy (including the proposed definitions of in-person instruction, interactive online instruction and distance learning, set out below) and with the current practice of the Approval Committee in assessing law school programs.

39. The change would allow law schools to take further advantage of available educational technologies and potentially create space for innovation and increase access to legal education for remotely situated populations, while still requiring a significant component of in-person instruction for the skills and knowledge that are best suited to that mode of delivery.

40. Law schools would, of course, be free to offer as much in-person instruction as suits their program. A one year (or two year) minimum would not prevent schools from requiring more in-person instruction.

41. The following language would capture this approach (also highlighted in the National Requirement document in Appendix A):

C.1

1.2 The course of study must include at least 30 credits (out of 90) of in-person instruction in a three-year degree. Of the remaining 60 credits, at least 30 credits must consist of either in-person instruction or interactive online instruction. The remaining 30 credits may consist of in-person instruction, interactive online instruction or distance learning. A blend of the modes of delivery can be integrated throughout the three-year degree to suit the goals of the program.



42. Regardless of the option selected, the following definitions are proposed, to be included in the Definitions section of the National Requirement for greater clarity. They are consistent with the definitions used by the NCA; and, in the case of “credit”, adopted by the Approval Committee for use in the annual Law School Report Form.

“In-person Instruction” refers to instruction that occurs through synchronous, face-to-face interaction conducted with the instructor and students in the same physical location.”

“Interactive Online Instruction” refers to instruction that uses online media and tools (e.g., videoconferencing, live chat) which provide opportunities for direct, synchronous interaction between instructors and students.

“Distance Learning” refers to instruction that occurs through non-face-to-face interaction between the instructor and students using asynchronous media and tools, such as recorded video lectures, email, or conventional mail.

“Credit” refers to one hour of teaching each week for a 12- or 13-hour week semester.

43. The Committee looks forward to receiving feedback on these options, as well as any other related ideas and input.

Experiential Learning

44. The Committee considered whether experiential learning should be required in law school and, if so, the content of that requirement.

45. There are a variety of types of experiential learning in legal education. The following definition provides a general idea of what is meant by the term:

“The term “Experiential Learning” refers to methods of instruction that regularly or primarily place students in the role of attorneys, whether through simulations, clinics, or externships. Such forms of instruction integrate theory and practice by providing numerous opportunities for students to learn and apply lawyering skills as they are used in legal practice (or similar professional settings). These learning opportunities are also designed to encourage students to begin to form their professional identities as lawyers, through experience or role-playing with guided self-reflection, so that they can become skilled, ethical, and professional life-long learners of the law.”²²

46. It is generally accepted that lawyering skills (referred to as “skills competencies” in the National Requirement) are most effectively acquired through experiential learning

²² David Thomson, “Defining Experiential Legal Education” (2015), online [here](#), p. 20



opportunities.²³ Recognizing that these skills will be developed over the course of a career, the question is what foundational elements should be established in law school through experiential learning and whether that standard should be added to the National Requirement.

47. The Committee recognizes that teaching skills through experiential learning – whether simulated in a law school or bar admission course or in a real clinical environment – is far more complex, and potentially far more expensive, than imparting substantive legal knowledge. One of the advantages cited for utilizing the law school environment is the three-year time frame within which educators can work with students to develop those skills, in an integrated and iterative fashion. Disadvantages may include the complexity and the cost of this undertaking at a time of soaring law school tuition, and the question of whether a sufficient number of law school professors currently have the skills and expertise to offer mandatory experiential instruction.²⁴

48. Although not mandated by the National Requirement, all law schools offer experiential learning in some form, ranging from moots and simulated exercises in case planning to the Integrated Practice Curriculum model at the Bora Laskin and Lincoln Alexander law schools. While experiential learning opportunities are often optional, to varying degrees most law schools require their students to engage in some form of experiential learning, for example through mandatory moots, trial advocacy or practical skills courses during their three-year degree program.

49. In developing preliminary proposals for discussion with respect to experiential learning, the Committee was informed by:

- i) the input of the Association of Canadian Clinical Legal Education, which is a strong proponent of clinical legal education in law schools;
- ii) discussions with the Council for Canadian Law Deans and the Canadian Association for Canadian Law Teachers in which some concern was expressed about the impact on the academic program of mandating experiential learning, as well as the cost and complexity of that endeavour; and
- iii) the results of a survey of students and young lawyers conducted by the Canadian Bar Association, in connection with this review, that revealed a perceived gap in practical experience upon entry to practice.

50. In the Committee’s view, it is an open question whether the skills-based experience identified by the students surveyed as valuable and missing from their education should be gained in law school, a bar admission program or in the early years of practice. The Committee has considered the “continuum of legal education” throughout this review, internally and with

²³ Ibid, p.7. See also William Sullivan et al., *Educating Lawyers: Preparation for the Profession of Law* (2007) (“Carnegie Report”) and William Sullivan “After 10 years: The Carnegie Report and Contemporary Legal Education (2018), online [here](#); Roy Stuckey et al., “Best Practices for Legal Education: A Vision and a Roadmap” (Clinical Legal Education Association, 2007) and CLEA best practices resources (2023), online [here](#)

²⁴ Gleaned from discussion with external contributors and in discussions at related discussions at October 2022 Federation conference.



external contributors and, as noted, proposes that the topic be explored in more depth following this review.

51. However, what seems clear is that the foundations for the skills and knowledge needed by an applicant to a common law bar admission program should be established in law school and, in the Committee's view (based on the input of the organizations referenced above), that foundation should include some practical experience. That said, the Committee also recognizes the varying resources of the law schools, the interest in not establishing strict "one size fits all" requirements, and the benefit of making available to law school applicants a variety of programming options at the different law schools. The Committee also contemplated whether it could foresee an application for a new law school being eligible for approval that did not intend to offer any experiential learning opportunities.

52. With these considerations in mind, and recognizing that the National Requirement is an evolving standard, the Committee puts forward a preliminary proposal for discussion that a provision be added requiring law schools to provide opportunities for experiential learning. The proposed wording would require law schools to make experiential learning opportunities available, whether elective or mandatory, that are integrated into the curriculum (i.e. not extracurricular, which would restrict access for many students).²⁵

53. Adding a requirement that law schools provide such opportunities, rather than making it mandatory that each student take advantage of those opportunities, is intended to balance this interest against the practical implications, especially for smaller law schools and the NCA, of making experiential learning part of the mandatory competency requirements in the National Requirement. As noted, this is an evolving standard and there will be future opportunities to build on this standard as thinking on the continuum of education and competency-based legal education develops.

54. The Committee proposes, for discussion, the following wording (underlined; also highlighted in the National Requirement document in Appendix A):

C.1 Academic Program

1.1 The law school's academic program for the study of law consists of three full-time academic years or equivalent, which, is 90 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.

²⁵ This proposal does not approach what is required in the [ABA Standard 303](#), but is intended to similarly express the vital importance of experiential learning, within the context of the National Requirement's less detailed and less prescriptive approach.



1.5 The academic program offers students experiential learning opportunities integrated into the curriculum, such as simulations of practical skills, moot court, trial advocacy courses, clinics and Indigenous law camps.
 4-5 1.6 Subject to special circumstances, the admission requirements for the law school include, at a minimum, successful completion of two years of post-secondary education at a recognized university or CEGEP.

55. As noted, the Committee will revisit all of its preliminary proposals based on the feedback received, including this proposal regarding experiential learning, and looks forward to input that will assist in further developing recommendations in this area.

Skills Competencies

56. An applicant to a bar admission program must demonstrate skills competencies in Problem-Solving, Legal Research, and Oral and Written Communications (National Requirement, section B 1.3). The Committee considered whether any additional skills competencies should be added. Another way of expressing this question is whether any other skills necessary for entry to a bar admission program require a foundation to be established in law school.

57. The Task Force made the following comments in its Final Report regarding the continuum of legal education and the intention of the National Requirement:

It is not reasonable to expect that law schools will graduate students who are fully capable of providing competent professional services to clients in all matters. Clearly, the profession must continue to play a role in bridging the gap between law school and formal licensing of lawyers. However, through the professional legal education students receive in law school, they should acquire foundational competencies necessary for the practice of law.²⁶

58. The Task Force applied these principles to skills competencies:

In recommending competencies in certain skills the Task Force has focused on those skills areas that law students can reasonably be expected to acquire during the academic component of their education. This is not to suggest that the legal academy should be expected to provide the only education in this area, rather that the three years of the academic program are an appropriate period in which to begin to inculcate these skills.

...The three skills areas that the Task Force's recommendations address are problem solving, legal research, and oral and written legal communication. In its view these skills are fundamental to any work a lawyer undertakes in the profession. In describing these competencies, the Task Force has kept in mind that a national requirement is to address what an

²⁶ Task Force Final Report, supra 5, p. 30



*applicant must demonstrate for entry to a bar admission program not for entry to the profession. Competency development is a progressive process with law school being the first step in career long learning.*²⁷

59. The Committee considered whether there are other skills which, upon re-examination in the current environment, are similarly foundational. Based on consideration of several factors – an analysis of skills required for admission to the bar in most jurisdictions, the CBA survey of students and young lawyers, and observations from Committee members and external contributors - the Committee concluded that the main skills necessary for practice that are missing from the National Requirement are:

- i) inter-personal/professional communication skills;
- ii) client relationship skills; and
- iii) practice management/ file management skills.²⁸

60. As noted by the Task Force (above), the National Requirement addresses what an applicant must demonstrate for entry to a bar admission program, not for entry into the profession, with law school being just the first step in career-long learning. As such, the Committee also turned its mind to whether it was appropriate to lay the building blocks for these skills in law school, or if that training is better suited to a bar admission program.

61. The Committee concluded that the traditional law school model (most common in Canada) is not the right place to teach practice/file management skills. Adding a mandatory competency in practice/file management would require either mandatory clinical education or a significant number of law school professors with these skills and expertise (which is currently not the case). That does not mean those skills are a low priority; it means that, in the Committee's view, they may be more effectively and appropriately taught in bar admission programs and/or articling.

62. The Committee also concluded that an adequate base for client relationship skills is already included in the National Requirement, to be subsequently built on through bar admission programs and continuing professional development. The Ethics and Professionalism provisions of the National Requirement (section B.2) set out required knowledge and skills specifically related to the lawyer's professional responsibility to the client, such as:

- i) knowledge of the fiduciary nature of the lawyer's relationship with the client;
- ii) confidentiality and privilege;
- iii) the importance of professionalism - including civility and integrity - in dealing with clients (along with others);
- iv) the lawyer's duties to clients, the courts, other legal professionals, law societies, and the public; and
- v) the skills needed to make informed and reasoned decisions in practice based on this knowledge.

²⁷ Ibid, p. 30

²⁸ Indigenous inter-cultural competence and wellness skills are addressed below.



Other skills required by the National Requirement, such as Problem-solving and Oral and Written Communications also support the client relationship.

63. However, the Committee came to the view that the building blocks for inter-personal and professional communication skills should and could be laid in law school. The Committee offers a preliminary proposal, for discussion, that two new provisions be added to the National Requirement to address these skills:

- i) under the Oral and Written Communications skills competency, an additional requirement that “the applicant must have demonstrated the ability to...communicate and interact with other participants in the justice system effectively and professionally”; and
- ii) under the Academic Program, an additional requirement that “the academic program offers students opportunities, integrated into the curriculum, to collaborate and work in teams.”

64. It would be within each law school’s discretion to decide the manner in which these requirements are met (if not already offered; it is the Committee’s understanding that most schools already offer such opportunities and training). The intention is to lay a foundation for inter-personal and professional communication skills. As a practical matter, in law school this might be demonstrated in a clinical setting with actual participants in the justice system but likely it will more often be simulated in interactions with peers and professors. Further, the addition of the requirement that law schools provide opportunities to collaborate and work in teams is intended to provide one avenue in which inter-personal and professional communication skills could be practised and evaluated. The Committee will appreciate each of these ideas being tested by the feedback received from recipients of this outreach.

65. The proposed provisions are set out below and highlighted in the National Requirement document in Appendix A:

- i) New clause in B 1.3 Skills Competencies:

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; and*
- e. *communicate and interact with other participants in the justice system effectively and professionally.*

- ii) New clause in the Academic Program Section at C 1.6:



C. 1. Academic Program

1.1 *The law school's academic program for the study of law consists of three full-time academic years or equivalent, which, is 90 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 *The academic program offers students experiential learning opportunities integrated into the curriculum, such as simulations of practical skills, moot court, trial advocacy courses, clinics and Indigenous law camps.*

1.6 *The academic program offers students opportunities, integrated into the curriculum, to collaborate and work in teams.*

1.7 *Subject to special circumstances, the admission requirements for the law school include, at a minimum, successful completion of two years of post-secondary education at a recognized university or CEGEP.*

Call to Action 28

66. The Truth and Reconciliation Commission Call to Action 28 (“CTA 28”) urges Canadian law schools:

“.. to require all law students to take a course in Aboriginal people and the law, which includes the history and legacy of residential schools, the United Nations Declaration on Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.”²⁹

67. The Committee has considered how to address CTA 28 in the National Requirement, undertaking research,³⁰ and engagement with numerous Indigenous groups and individuals and

²⁹ Truth and Reconciliation Commission of Canada: Calls to Action, online [here](#).

³⁰ e.g., Pooja Parmar, *Reconciliation and Ethical Lawyering: Some Thoughts on Cultural Competence*, The Canadian Bar Review, Vol. 97 No. 3 (2019) online [here](#); Jeffery G. Hewitt, “Decolonizing and Indigenizing: Some Considerations for Law Schools” (2016) 33:1 Windsor YB Access Just 65 at 68, online [here](#); Val Napoleon & Hadley Friedland, “An Inside Job: Engaging with Indigenous Legal Traditions through Stories” (2016) 61:4 McGill L J 725 at 733, online [here](#); Jaime Lavallee, “How To Be Biased in the Classroom: Kwayeskastasowin - Setting Things Right?” (2022) 48:3 Mitchell Hamline Law Review, online [here](#); Karen Drake and A. Christian Airhart, “Who Should Teach Indigenous Law?”, *Voicing Identity*, University of Toronto Press, 2022; Patricia Barkaskas & Sarah Buhler, “Beyond Reconciliation: Decolonizing Clinical Legal Education” (2017) 26:1 JL & Soc Pol’y 1–20, online [here](#); Marcelle Burns, “Are We There Yet: Indigenous Cultural Competency in Legal Education” (2018) 28:1 Legal Educ Rev 1–29, online [here](#); Ederlina Co, “Teaching Cultural Competence as a Fundamental Lawyering Skill” (2019) 23:1 Legal Writing: J Legal Writing Inst 4–6, online [here](#); Lindsay Borrows, “Dabaadendiziwin: Practices of Humility in a Multi-Judicial Legal Landscape” (2016) 33:1 Windsor YB Access Just 149–166, online [here](#).



other external contributors on the issue.³¹ It has looked at how the law schools have responded to CTA 28,³² as well as the work of the Federation and the law societies in response to CTA 27³³ (which mirrors CTA 28 for members of the profession). While the initiatives of the law societies have a slightly different focus, it is important to be aware of the related work that is concurrently underway. Most important in the development of the preliminary proposals below has been meaningful consultation with Indigenous groups and individuals,³⁴ including the Federation’s Indigenous Advisory Council.

68. The “continuum of legal education” applies equally in this area. It is a shared responsibility of the Federation, provincial and territorial law societies, and law schools to transform the relationship between legal professionals and Indigenous peoples. Just as the law societies have undertaken initiatives to advance the Indigenous intercultural competence of lawyers in their jurisdictions, the law schools have been working to establish foundational competence in their graduates. There is no doubt that law schools are responding to CTA 28, and often in ambitious and creative ways.

69. There were several questions and factors at the forefront in discussions on this issue:

- i) are there skills and knowledge, in addition to those listed in Call to Action 28, that warrant a foundation being laid in law school?;
- ii) what is the best way to deliver the content? – a mandatory course, weaving the material through the rest of the curriculum, or both?;
- iii) should a pathway be specified, or should the method of delivery be left to law schools to determine (recognizing that the National Requirement is generally non-prescriptive: Ethics and Professionalism is the only field with a specified pathway); and
- iv) can the burden on Indigenous legal academics be reduced through the choice of one model or another?

³¹ There is uniform support from external contributors for the integration of CTA 28 into the National Requirement, including from the Canadian Association of Legal Ethics in its fall 2022 written submission to the Committee for inclusion of relevant content in the Ethics and Professionalism section.

³² For information on law school initiatives, see Council of Canadian Law Deans [2023 Update on Canadian Law Schools Responses to TRC Calls to Action](#); also the [Federation website](#), and article [Sustaining Progress in Indigenous Legal Education](#). Note that the Federation and the Council of Canadian Law Deans created a joint working group to facilitate ongoing information sharing and collaboration on the responses of law societies and law schools to the TRC report.

³³ In 2020, the Federation Truth and Reconciliation Committee Calls to Action Advisory Committee made [recommendations](#), approved by the Council of the Federation, for how the Federation should address the TRC Calls to Action, particularly Calls to Action #27 and 28 which speak to law societies and law schools. The Federation subsequently adopted a formal [statement of commitment to reconciliation](#) along with [Guiding Principles for Fostering Reconciliation](#) that inform all aspects its work.

It urged all law societies (which bear responsibility for regulating the legal professions) to follow suit with a formal commitment to reconciliation and a framework for putting that commitment into action. Law societies were also encouraged to review specific aspects of regulation and education within their purview and to make any modifications necessary to reflect the spirit and intent of the Calls to Action. The law societies have responded in a variety of ways which are highlighted on the Federation’s website [here](#).

³⁴ See Appendix C for a list of the Indigenous individual and groups with whom the Committee requested engagement and those from whom the Committee received input.



70. Highlights of the input the Committee received from Indigenous individuals and groups are set out below:

- i) The wording of CTA 28 is not as important as deciding what will result in meaningful legal education and ultimate competence in this field.
- ii) Reconciliation is best served by weaving the content and themes throughout the curriculum (i.e. in Family, Property, Torts, Constitutional, Trusts etc.), relying not just on Indigenous faculty, but asking non-Indigenous faculty to learn and to update their course content as needed. This approach will, over time, normalize the content as part of a Canadian legal education, rather than segregating it in a stand-alone course. It also has the advantage of lessening the pressure on Indigenous faculty.
- iii) The only content that should be taught exclusively by Indigenous faculty is Indigenous law/legal orders, although some thought that it was possible for this content to be taught by non-Indigenous faculty who have lived experience with the subject matter as well as Indigenous teachings.
- iv) Law professors are accustomed to learning, and teaching, new and difficult things.
- v) Requiring content on Indigenous law/legal orders will integrate this system of laws into the Canadian legal education, and has the potential effect of fundamentally altering how students perceive the law throughout their careers.
- vi) Some suggested that content on the specific Indigenous legal orders of the territory on which the law school is situated should be included (in the same way that provincial and territorial legislation is taught in law school); others advised that this would not be feasible, at least without consultation with the Indigenous communities in the area (it would place a burden on those communities and, in some places, there are a number of different communities/ sets of legal orders within a small area).
- vii) There is value to a stand-alone “introductory” course, especially while the pre-law education system improves its curriculum on these topics which will eventually result in a better informed first year class. Currently, the level of knowledge varies widely in first year.³⁵
- viii) It would be difficult to absorb the information woven through more advanced courses without a solid understanding of the history. At the same time, some felt that the history, and culpability of the legal profession and justice system, would naturally be taught along with the substantive content if woven in.
- ix) Several disadvantages of a mandatory stand-alone course were highlighted:
 - The diversion of Indigenous faculty to teach a mandatory course to all first year students keeps them from applying their expertise in more advanced courses, especially given the current scarcity of Indigenous faculty.
 - There is a risk of segregating the content and the faculty; students seem more resistant to receiving the information when it is presented in a single mandatory course.

³⁵ A stand-alone assessment tool will likely remain especially important for NCA students, most of whom start their Canadian legal education without any basic knowledge of Canadian Indigenous and Aboriginal history.



- The mandatory courses tend to be taught by junior Indigenous faculty who are particularly impacted by this resistance and negativity.
 - First year is already packed with introductory mandatory courses.
 - Prescribing a mandatory course does not allow for the evolution of the curriculum as law students gradually enter law school better educated on Indigenous issues and perspectives.
- x) It is important that some aspects of CTA 28 content covered in law school are included on bar admission / licensing examinations, to motivate law students to acquire that knowledge.

71. Based on what it has learned to date, the Committee proposes for discussion the following amendments to the National Requirement, which focus on integrating the content throughout the curriculum and permit, but do not prescribe, a mandatory course (see proposed revisions integrated into the National Requirement Appendix A):

- i) Add reference to “Indigenous legal orders, issues, perspectives and contexts” in the introduction to the Substantive Legal Knowledge section:
“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, including Indigenous legal orders, issues, perspectives and contexts.”³⁶
- ii) Add reference to Indigenous legal orders under Foundations of Law in the Substantive Legal Knowledge section, i.e. understanding of:
“a. principles of common law and equity; b. Indigenous legal orders; c. the process of statutory construction and analysis; and d. the administration of the law in Canada.”
- iii) Amend description of Public Law of Canada as follows:
“The applicant must have an understanding of the following 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 the constitutional rights of Aboriginal peoples under section 35 of the Constitution Act, 1982 and Parliament’s legislative authority over “Indians and lands reserved for them” under section 91(24) of the Constitution Act, 1867; b. Canadian criminal law, including as it relates to Indigenous peoples; and c. the

³⁶ The use of different terms through the CTA-28 proposed amendments are intentional, with the following meanings. **Indigenous legal issues:** Canadian legal issues that impact Indigenous persons, Indigenous communities and Indigenous territories, e.g. Indigenous incarceration in criminal law; class actions and remediable harms in tort law; matrimonial property on reserve in family law. **Indigenous legal perspectives:** Indigenous persons’ or peoples’ perspectives on law (either or both Canadian and Indigenous law). **Indigenous legal orders:** Indigenous peoples’ laws, taught within their own epistemological, cosmological and ontological commitments. **Indigenous legal contexts:** Relationships between Indigenous and non-Indigenous peoples and between Indigenous peoples and the Canadian state, with a focus on the context of the interaction.



principles of Canadian administrative law, including as it relates to Indigenous peoples.”

- iv) Amend description of Private Law Principles as follows:
“The applicant must demonstrate an understanding of the following principles that apply to private relationships, to include Indigenous legal contexts and content, including: a. contracts; b. torts; and c. property law.”
- v) Add a fourth category of Substantive Legal Knowledge, entitled “Indigenous Law and Legal Orders” (at section B 3.4) which, in line with the other three categories (Foundations of Law, Public Law of Canada, Private Law Principles) would set out the mandatory content but not the pathway:
“The applicant must demonstrate an understanding of: a. the sources and authorities of Indigenous law and legal orders; b. Indigenous legal theories; and c. Indigenous legal methodologies
- vi) Add an additional clause in the Academic Program section (section C.1):
“The academic program demonstrates integration of Indigenous legal issues and perspectives, where applicable, throughout the curriculum.”

The intention of this addition would be to encourage law schools to weave this content into both required and non-required courses, as applicable, such as Family and Trusts.

- vii) Add reference to ethical duties related to Indigenous peoples to the Ethics and Professionalism section (see further discussion below).

72. The Committee believes, based on its research and engagement, that this approach will have the effect of normalizing the focus on Indigenous laws and perspectives and will allow for broader and deeper consideration of the issues than might be possible in a single, stand-alone course. It also offers a number of advantages which are consistent with the overall tenor of the National Requirement.

- i) It permits but not does prescribe a single mandatory course.
- ii) It offers law schools flexibility to design the curriculum, and for the curriculum to evolve.
- iii) It encourages the integration of the content throughout the curriculum.
- iv) It balances the burden between Indigenous legal educators and non-Indigenous legal educators and sends the message that this is a priority for the whole law school, not just the Indigenous faculty.

73. It is apparent from our engagement meetings with Indigenous legal academics that resources to assist with the integration of this material in the curriculum is well underway and there is an intention to share that information. It will also be important that the law faculty,



Indigenous and non-Indigenous, are supported in this endeavour by the leadership and senior faculty in the law schools.

74. Feedback on the preliminary proposals related to CTA 28 is vital. The Committee looks forward to receiving input on the approach and proposed wording.

Ethics and Professionalism

75. The Ethics and Professionalism section of the National Requirement specifies the required substantive knowledge and skills related to legal ethics. It is expressed at a high level, highlighting the lawyer’s primary ethical and professional duties. The Committee offers a preliminary proposal for discussion for two additions to this section of the National Requirement.

76. First, provisions related to Discrimination and Harassment were added to the Federation’s Model Code of Professional Conduct in October 2022:³⁷

6.3-1 A lawyer must not directly or indirectly discriminate against a colleague, employee, client or any other person.

6.3-2 A lawyer must not harass a colleague, employee, client or any other person.

77. The Commentary is lengthy and detailed. While it includes much important detail, the following provision should be noted, as it relates to the issues raised in CTA 28.

Indigenous peoples may experience unique challenges in relation to discrimination and harassment as a result of the history of the colonization of Indigenous peoples in Canada, ongoing repercussions of the colonial legacy, systemic factors, and implicit biases. Lawyers should take particular care to avoid engaging in, allowing, or being willfully blind to actions which constitute discrimination or any form of harassment against Indigenous peoples.

78. The Committee proposes that the Ethics and Professionalism section in the National Requirement be amended to add the following reference to the Discrimination and Harassment provisions:

“This includes familiarity with...duties relating to discrimination and harassment pertaining to colleagues, employees, clients or other persons, including the unique challenges experienced by Indigenous peoples.” (See also below, and highlighted in Appendix A.)

³⁷ [Model Code of Professional Conduct](#) (as amended October 2022), Discrimination and Harassment provisions at chpt 6.3, p. 104. Since the last review of the National Requirement there have been two additional amendments: in 2019 Commentary 4[A] and [B] were added to R3.1-2 Competence to address technological competence and in 2022 R5.1-2B and C were added to address *ex parte* proceedings and single-party communications with a tribunal.



79. The specific reference to the challenges faced by Indigenous peoples, and not to the rest of the commentary under the provision, is proposed because it connects with the recommendations in CTA 28.

80. Second, the Committee proposes that the Ethics and Professionalism section include a reference to “*duties relating to Indigenous peoples in Canada.*” (highlighted within the full provision below and in Appendix A.)

81. The Standing Committee on the Model Code of Professional Conduct is currently working on proposals to amend the Model Code in response to Call to Action 27 (which mirrors CTA 28, including content on intercultural competency, conflict resolution, human rights, and anti-racism). Adding a high level reference to the Ethics and Professionalism section in the National Requirement (in line with the level of detail in the rest of the provision) will effectively incorporate the Model Code duties related to Indigenous peoples once those rules are developed and finalized. When that work is complete, amendment to the National Requirement wording proposed here may be needed to better reflect the new provisions in the Model Code; or the wording may suffice. The Committee will recommend that a review of that issue be undertaken once the Model Code work is completed.

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:

2.1 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. duties relating to discrimination and harassment pertaining to colleagues, employees, clients or other persons, including the unique challenges experienced by Indigenous peoples;*
- 7. duties relating to Indigenous peoples in Canada;*
- 8. the importance of professionalism, including civility and integrity, in dealing with clients, other counsel, judges, court staff and members of the public; and*
- 9. 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.*

2.2 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.*

82. The Committee looks forward to input on this preliminary proposal with respect to Ethics and Professionalism.

Substantive Legal Knowledge

83. Early in the review process, the Committee considered whether any changes were required to the substantive knowledge provisions of the National Requirement. Its preliminary conclusion was that, other than to address CTA 28, it was not inclined to propose any significant amendments in this area.

84. The feedback received in fall 2022 was intended to inform the Committee's preliminary list of priority issues and all of the input was carefully considered before the Committee finalized its plan and proceeded with its work.

85. The Committee noted in particular the number of comments received recommending that Family Law, and content on intimate partner violence, be added to the National Requirement. The reasons given included (but were not limited to):

- i) the prevalence of issues with accessing legal services in family law;
- ii) it is the area of law that affects the largest percentage of Canadian society;
- iii) a working knowledge of family law is needed by lawyers in other practice areas, such as corporate/commercial, criminal, wills and estates, real estate, tax law, etc.;
- iv) intimate partner violence is a crisis in Canadian society and research shows a failure (and/or inability) by lawyers to screen for it; and
- v) intimate partner violence is a cross-cutting issue that can impact a lawyer's practice in any field.

86. While the reasons for adding Family Law are persuasive, there are other areas of law that might also be considered for inclusion, or possible removal. What additional areas of law ought to be required in law school (if any) and on what basis is a broader topic to consider. The Committee proposes that this topic be included in a forum discussion on the continuum of



education and competency-based learning, following this review, and also be considered as a possible priority issue on the next review.

Encouraging Innovation

87. The Committee considered whether there would be merit in allowing for approval of innovative programs that might not fully comply with the National Requirement. Currently, the Approval Committee does not have the authority to assess or approve proposals from law schools that diverge from the National Requirement.

88. To provide for experimentation with innovative programming, the Committee proposes the creation of a “sandbox”, giving the Approval Committee authority to consider proposals for innovative law school programs that do not fully comply with the National Requirement, based on delineated criteria. Proposals approved by the Approval Committee would need to be subsequently approved by the Council of the Federation and each of the individual law societies, to ensure that graduates from such programs would be eligible for admission to any bar admission program.

89. The National Requirement is a very high level standard with significant flexibility built in for law schools to design innovative approaches and offerings to students. As such, it is expected that programming that is non-compliant with the National Requirement would be exceptional. Nevertheless, the aim would be to create additional space for innovative curriculum design that, while not strictly compliant with the National Requirement, might enhance access to legal education or otherwise have the potential to enrich legal education, while still ensuring that graduates obtain the necessary foundational knowledge and skills.

90. To encourage such innovation by law schools, without compromising the core educational standards, the Committee suggests that to be eligible for consideration by the Approval Committee proposals may only diverge from the “Approved Canadian Law Degree” provisions in Section C for the Academic Program and Learning Resources (e.g., number of credits/years, mode of study, physical resources). In other words, the Approval Committee will not consider proposals that deviate from the Substantive Knowledge and Skill Competencies required in Section B (e.g. areas of substantive knowledge and skills that must be acquired – Foundations of Law, Public Law, Private Law, Legal Research etc.).

91. A ‘blue-sky’ discussion by the Committee gave rise to examples of possible innovative program proposals, such as:

- i) reducing the credit hours/number of years required in law school to be replaced with skills training;
- ii) reducing the in-person requirement to allow Indigenous students to remain close to their communities; and



- iii) a joint proposal from a law school and a law society to mesh theoretical and practical training.

92. This preliminary proposal would not require an amendment to the National Requirement; rather the Committee would recommend to the Council of the Federation that the authority of the Approval Committee be expanded to allow consideration of proposals for programs that do not fully comply with the Approved Canadian Law Degree provisions under the National Requirement, but which will:

- i) enhance access to legal education or advance innovation in legal education; and
- ii) result in the acquisition of the skills and substantive knowledge competencies mandated by the National Requirement.

93. The Committee also suggests that if such a sandbox is established, the Approval Committee retain the authority to decline proposals based on any concerns that the proposed program fails to meet the spirit and intent of the National Requirement. As noted above, if the Approval Committee approves a proposal, it would be sent to the Council of the Federation for consideration and approval, followed by consideration and approval by the individual law societies.

94. The Committee recognizes there are pros and cons to this idea and is very interested in feedback. The pros are emphasized above. The cons might be that it creates an extra layer of evaluation by the Approval Committee, the Council of the Federation and the law societies, there may be unintended effects of such a program, and/or it simply might be more complicated than is warranted for the anticipated benefits.

Wellness

95. The National Wellness Study, released in fall 2022, was the first comprehensive national study of its kind of legal professionals in Canada.³⁸ Its findings identified worrying levels of mental health issues in every segment of the legal profession, but particularly among legal professionals in the early stages of their career. Its recommendations include proposed measures by law schools to promote wellness among law students.³⁹

96. The Committee spoke to members of the legal academy regarding their concerns for student wellness and their commitment to finding solutions, and considered whether there is a place for explicit reference to wellness in the National Requirement or another way that this review could advance some of the proposals in the Wellness Study.

97. The Committee notes that the Approval Committee specifically asks the law schools to report on student services including “health, wellness and mental health” resources, which

³⁸ National Wellness Study (December 2022), [online](#).

³⁹ National Wellness Study, Targeted Recommendations, pp. 13-15, [online](#).



encourages the schools to build this capacity. Section 2.1 of the National Requirement requires that “[t]he 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.” Although the provision does not refer to student services, it requires that law schools have adequate resources to meet its objectives and the Approval Committee has included student services and specifically wellness resources into this assessment. The detailed information provided by the law schools in response demonstrates that student wellness is a priority and there has been an increase in attention and resources devoted to supporting wellness.

98. In addition to providing resources, it is also critical that learning start in law school about the scope of mental health issues in the legal professions, in order to destigmatize these challenges and to encourage legal professionals at all stages of their careers to seek help when needed.

99. The Committee is not proposing to add a specific reference to wellness in the National Requirement, as assessment of wellness resources is already part of the Approval Committee’s process. The Committee recognizes that more needs to be done to address the wellbeing of law students, but also understands that this is a very complex issue not easily addressed by adding wording to the National Requirement.

100. The Committee proposes, for discussion:

- i) that the Approval Committee be asked to consider critically the questions posed in the annual law school report form regarding wellness, with a view to eliciting information, not just about available resources, but also about the dissemination of information to and discussions with students about wellness challenges in the profession; and
- ii) that the Committee recommend to the Council of the Federation that a forum be established, including law societies, law schools and law student representatives, specifically to consider the wellness challenges faced by law students and young lawyers and to develop tools to address them.

Request for Feedback

101. The Committee looks forward to receiving feedback on the preliminary proposals and options discussed in this paper. Feedback is essential to further developing this work. All of the input will be carefully reviewed, discussed and considered by the Committee.

102. Please provide your comments to consultations@flsc.ca by October 16, 2023. The Committee would also be pleased to arrange a meeting to receive input. If you prefer to engage with the Committee in this way, please write to consultations@flsc.ca, no later than September 8, 2023, to make those arrangements.





Appendix A

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;
- c. "credit" refers to one hour of teaching each week for a 12- or 13- hour week semester;
- d. "distance learning" refers to instruction that occurs through non-face-to-face interaction between the instructor and students using asynchronous media and tools, such as recorded video lectures, email or conventional mail;
- e. "in-person instruction" refers to instruction that occurs through synchronous, face-to-face interaction conducted with the instructor and students in the same physical location;
- f. "interactive online instruction" refers to instruction that uses online media and tools (e.g., videoconferencing, live chat) which provide opportunities for direct, synchronous interaction between instructors and students; and
- g. "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:

- 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.

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.



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; and
- e. communicate and interact with other participants in the justice system effectively and professionally.

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:

2.1. 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. duties relating to discrimination and harassment pertaining to colleagues, employees, clients or other persons, including the unique challenges experienced by Indigenous peoples;



7. duties related to Indigenous peoples in Canada;

8. the importance of professionalism, including civility and integrity, in dealing with clients, other counsel, judges, court staff and members of the public; and

9. 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.

2.2. 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.

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, including Indigenous legal orders, issues, perspectives and contexts. 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:

- a. principles of common law and equity;
- b. Indigenous legal orders;



- c. the process of statutory construction and analysis; and
- d. the administration of law in Canada.

3.2. Public Law of Canada

The applicant must have an understanding of the following 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 including Aboriginal peoples' constitutional rights~~ the constitutional rights of Aboriginal peoples under section 35 of the Constitution Act, 1982 and Parliament's legislative authority over "Indians and lands reserved for them" under section 91(24) of the Constitution Act, 1867;
- b. Canadian criminal law, including as it relates to Indigenous peoples; and
- c. the principles of Canadian administrative law, including as it relates to Indigenous peoples.

3.3. Private Law Principles

The applicant must demonstrate an understanding of the following principles that apply to private relationships, to include Indigenous legal contexts and content; ~~including~~:

- a. contracts;
- b. torts; and
- c. property law

3.4. Indigenous Law and Legal Orders

The applicant must demonstrate an understanding of:

- a. the sources and authorities of Indigenous law and legal orders;
- b. Indigenous legal theories; and
- c. Indigenous legal methodologies.



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 full-time academic years or equivalent, which, is 90 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.~~

OPTION 1

1.2 The course of study must include at least 60 credits (out of 90) of in-person instruction in a three-year degree. The remaining 30 credits may consist of in-person instruction, interactive online instruction or distance learning. A blend of the modes of delivery can be integrated throughout the three-year degree to suit the goals of the program.

OPTION 2

1.2 The course of study must include at least 30 credits (out of 90) of in-person instruction in a three-year degree. Of the remaining 60 credits, at least 30 credits must consist of either in-person instruction or interactive online instruction. The remaining 30 credits may consist of in-person instruction, interactive online instruction or distance learning. A blend of the modes of delivery can be integrated throughout the three-year degree to suit the goals of the program.

- 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 The academic program offers students experiential learning opportunities integrated into the curriculum, such as simulations of practical skills, moot court, trial advocacy courses, clinics, and Indigenous law camps.



- 1.6 The academic program offers students opportunities, integrated into the curriculum, to collaborate and work in teams.
- 1.7 The academic program integrates Indigenous legal issues and perspectives, where applicable, throughout the curriculum.
- 1.8 Subject to special circumstances, the admission requirements for the law school include, at a minimum, successful completion of two years of post-secondary 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.





Federation of
Law Societies
of Canada

Fédération des ordres
professionnels de juristes
du Canada

Appendix B

Recipients of September 2022 and February 2023 Communiqués*

Canadian Bar Association

Council of Canadian Law Deans

Canadian Association of Law Teachers

Canadian Association for Legal Ethics

Association for Canadian Clinical Legal Education

Indigenous Bar Association

South Asian Bar Association

Law Students' Society of Ontario

Canadian Association of Black Lawyers

National Indigenous Law Students' Association

Black Law Students' Association of Canada

Federation of Asian Canadian Lawyers

Law Societies (Presidents, Vice-Presidents, CEOs & Senior Staff)

Council of the Federation

Indigenous Advisory Council of the Federation of Law Societies of Canada

*See footnote 4 for list of respondents



Appendix C

Recipients of Letter Requesting Engagement on CTA 28

Indigenous Bar Association*

Canadian Bar Association Aboriginal Law Section

National Indigenous Law Students' Association

Aboriginal Legal Services

Dr. Val Napoleon, I.P.C., Acting Dean and Director, Indigenous Law Research Unit, Faculty of Law, University of Victoria*

Wahkohtowin Law and Governance Lodge, University of Alberta

Dr. Beverly Jacobs, Associate Professor, Faculty of Law, University of Windsor

Mino-Waabandan Inaakonigewiana Indigenous Law and Justice Institute, Bora Laskin Faculty of Law, Lakehead University

Dr. John Borrows, I.P.C., Professor, Faculty of Law, University of Victoria*

Jeffrey Hewitt, I.P.C., Associate Professor, Osgoode Hall Law School, York University*

Naiomi Metallic, Associate Professor, Schulich School of Law, Dalhousie University*

Myrna McCallum, Miyo Pimatisiwin Legal Services, North-Vancouver, BC

Chantelle Johnson, Executive Director, Community Legal Assistance Services for Saskatoon Inner City Inc. (CLASSIC), Saskatoon, SK*

Karen Drake, Associate Dean (Students) & Associate Professor, Osgoode Hall Law School, York University*

Native Women's Association of Canada, Gatineau, QC

Dr. Signa Daum Shanks, Associate Professor, Faculty of Law, University of Ottawa

Stephen Mansell, Northern Director, Nunavut Law Program, University of Saskatchewan College of Law

Claudette Commanda, Indigenous Chancellor, University of Ottawa First Nations Confederacy of Cultural Education Centres

Alyssa Flaherty-Spence, Associate, Gowlings WLG

Madeleine Redfern, Chair, Nunavut Legal Services Board

Karine Millaire, Professeure Adjointe, Faculté de droit, Université de Montréal

Nishnawbe-Aski Legal Services Corporation, Thunder Bay, ON

Dr. Jaime Lavallee, Assistant Professor, College of Law, University of Saskatchewan

Patricia Barkaskas, Strategic Advisor to the Dean for the National Centre for Indigenous Laws, Faculty of Law, University of Victoria*

Douglas Sanderson, Associate Professor, Faculty of Law, University of Toronto *

Dr. Sherry Pictou, Assistant Professor, Schulich School of Law, Dalhousie University

Dr. David Milward, Associate Professor, Faculty of Law, University of Victoria*

Dr. Sarah Morales, Associate Professor, Faculty of Law, University of Victoria*

Gordon Christie, Professor, Peter A. Allard School of Law, University of BC

Darlene Johnston, Associate Professor Emeritus, Peter A. Allard School of Law, University of BC

Robert Clifford, Assistant Professor, Peter A. Allard School of Law, University of BC

Johnny Mack, Assistant Professor, Peter A. Allard School of Law, University of BC

Brenda Gunn, Director Academic & Research, National Centre for Truth and Reconciliation, University of Manitoba*

Aimee Craft, Associate Professor, Faculty of Law, University of Ottawa*

Darren O'Toole, Associate Professor, Faculty of Law, University of Ottawa

Aaron Mills, Assistant Professor, Faculty of Law, McGill University

Kerry Sloan, Assistant Professor, Faculty of Law, McGill University

Sylvia McAdam, Assistant Professor, Faculty of Law, University of Windsor

Dr. Alan Hanna, Assistant Professor, Faculty of Law, University of Victoria

Lindsay Borrows, Assistant Professor, Faculty of Law, Queen's University*

West Coast Environmental Law, Relaw Project, Vancouver, BC

Marc Kruse, Indigenous Legal Studies Coordinator, Faculty of Law, University of Manitoba*

Daniel Diamond, Assistant Professor, Faculty of Law, University of Manitoba

* Individuals and groups with whom the Committee met and/or received input. The Committee also met with Richard Devlin, Constance MacIntosh, and Sarah Simon of the Schulich Law TRC Committee, along with Naomi Metallic.





Appendix D

Terms of Reference, National Requirement Review Committee

1. The Federation of Law Societies of Canada (the “Federation”) establishes a committee to be known as the National Requirement Review Committee 2021 (the “Committee”).

Mandate

2. The mandate of the Committee is to undertake a review of the content of and the process for assessing compliance with the National Requirement and to make such recommendations to the Council of the Federation for amendments as it deems appropriate.

3. In conducting its review, the Committee is to take into consideration changes in legal education and in the practice of law since the National Requirement was developed. The work of the NCA Assessment Modernization Committee, in particular the Competency Profile Development project, must also be taken into consideration. The Committee is further required to have regard to applicable fair access to regulated professions legislation in force in Ontario, Manitoba, Alberta and Nova Scotia.

4. The review is to include robust consultation with key stakeholders including law societies, the Council of Canadian Law Deans and other representatives of the legal academy.

Structure

5. The Committee will be comprised of not more than 10 nor fewer than 7 members as follows:

- Two representatives from the Common Law Program Approval Committee (“Approval Committee”)
- Two representatives from the National Committee on Accreditation (“NCA”)
- Two representatives from the teaching ranks of the legal academy
- Two members of Council, one of whom will chair the committee
- One senior law society staff member involved in admissions
- At least one member from either the NCA or the Approval Committee must be a dean of a Canadian common law program
- At least one member who identifies as First Nations, Inuit or Métis

Relationship with the NCA Assessment Modernization Committee

6. The chair of the Committee shall also serve as an *ex officio* member of the NCA Assessment Modernization Committee to assist with integration of the work of the Competency Profile Development project into the review of the National Requirement.

Resources

7. The Committee will be provided with senior staff support and sufficient financial resources to permit it to carry out its mandate.