

# **TASK FORCE ON ACCREDITATION OF CANADIAN COMMON LAW DEGREES**

## **DRAFT DISCUSSION PAPER November 2007**

The views expressed in this discussion paper are preliminary ideas presented by the Task Force for consideration and discussion. They have not been endorsed by the governing body of the Federation and do not represent the official position of the Federation or its member law societies.

## TABLE OF CONTENTS

Draft Discussion Paper .....	Page 3
Appendix 1: Law Society of Upper Canada 1957 Amended Requirements .....	Page 17
Appendix 2: Highlights of the <i>Fair Access to Regulated Professions Act</i> .....	Page 23
Appendix 3: Overview to National Committee on Accreditation .....	Page 24
Appendix 4: National Committee on Accreditation Statistics .....	Page 28
Appendix 5: Requirements for approved law degree (comparative chart) .....	Page 29
Appendix 6: Carnegie Foundation Summary of <i>Educating Lawyers-Preparation for the Practice of Law</i> .....	Page 33
Appendix 7: Required Courses at Canadian Common Law law schools/Courses required by law societies .....	Page 37
Appendix 8: Working Document on required framework/competencies .....	Page 40
Appendix 9: Outline of Harvard Law School first year curriculum reform .....	Page 42
Appendix 10: Task Force Process and Timeline .....	Page 45

*More than other types of occupation, professions are critically determined by the education of their members. For medicine, engineering, and the clergy, as well as law and virtually all other professions, professional schools have become key switching stations that route their graduates toward their future careers. By providing systematic immersion into a distinctive knowledge base, professional schools set their students apart from lay people, binding them into a shared pattern of thinking and acting. Professional schools thereby provide students with their first, and highly influential, orientation toward the domain they are entering. Professional education teaches both a way of understanding how the world works and a distinctive set of skills for working in the world. But, perhaps most decisively, professional education forms the identity of the future professional, showing how to succeed and how to comport oneself as a teacher, a physician, a member of the clergy, or a member of the bar.*

**The Carnegie Foundation for the Advancement of Teaching  
*Educating Lawyers – Preparation for the Profession of Law, 2007***

## INTRODUCTION

1. In June 2007, the Federation of Law Societies of Canada established a Task Force to consider a number of issues related to legal education and to make recommendations for the consideration of and possible adoption by member law societies. In particular the Task Force is to,
  - a. review the criteria currently in place establishing the approved LL.B/ J.D. law degree for the purposes of entrance to law societies' bar admission/ licensing programs ("the approved LL.B./J.D. degree") and determine whether modifications are recommended;<sup>1</sup>
  - b. if modifications are recommended, to propose a national standard for the approved LL.B./J.D. degree; and
  - c. consider the matters in (a) and (b) in relation to the National Committee on Accreditation requirements for granting a certificate of qualification and determine what changes if any should be made to those requirements. By articulating standards for the approved LL.B./J.D. law degree the Federation can more clearly identify for internationally trained candidates and those with civil law degrees from Quebec the meaning of "equivalent to a Canadian LL.B./J.D. degree."
2. The members of the Task Force are John J.L. Hunter, Q.C (Chair), Susan Barber, Babak Barin, Professor Vern Krishna C.M., Q.C., Brenda Lutz, Douglas A. McGillivray, Q.C., Grant Mitchell, Q.C., Donald F. Thompson, Q.C., Alan D. Treleaven and Catherine S. Walker, Q.C. Staff to the Task Force is Sophia Spurdakos.
3. In establishing this Task Force, the Federation was aware that work had begun at the Law Society of Upper Canada to address a broad range of licensing and accreditation issues both specific to Ontario and relevant elsewhere in the country. In addition, the Federation itself had already been working on related issues through the National Committee on Accreditation, one of its standing committees.

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<sup>1</sup> The Task Force is only considering the requirements as they apply to common law degrees (the LL.B. and J.D.).

4. To the extent that there is overlap in the issues that the Task Force and the Law Society of Upper Canada Task Force are considering the intention is that they will come together to develop a unified national approach on legal education matters within the jurisdiction of law societies, in the public interest.
5. The Task Force has identified three key issues that it must address, which will be discussed in greater detail below. They concern,
  - a. the approved LL.B./J.D. degree;
  - b. the NCA requirements; and
  - c. the statutory requirements of provincial fair access to regulated professions legislation.
6. It has been immediately clear to the Task Force that this is a constellation of issues, inextricably linked. They necessitate an integrated analysis and, ultimately, recommendations that are complementary. To attempt to resolve one issue in isolation from the other two would undermine the effectiveness of the solutions reached.
7. The Federation Task Force has met on three occasions, to date, and is providing this draft discussion paper to the Federation meeting in Regina on November 9, 2007 to open a national discussion on the topics with which it is concerned, a timeline for which is set out in an appendix at the end of this paper.
8. This report,
  - a. provides background information on the factors that have rendered the establishment of this Task Force essential;
  - b. sets out the initial considerations underlying the Task Force's ongoing discussions;
  - c. outlines the nature of the Task Force's discussion to date respecting the approved LL.B./J.D. law degree and related issues and the National Committee on Accreditation requirements; and
  - d. sets out next steps.

**A. BACKGROUND**

9. The Federation has never articulated a national standard for the approval of either law schools or law degrees as prerequisites for admission to the bars of the common law provinces or territories. The only articulated standard has for 50 years been a document prepared by the Law Society of Upper Canada in 1957 and amended in 1969<sup>2</sup> (“the amended 1957 requirements”). The amended 1957 requirements are set out at **APPENDIX 1**.
  
10. In the 50 years since the amended 1957 requirements were published, the legal landscape in Canada has undergone numerous changes and has become increasingly diverse and complex, affected by, among other things, globalization, significantly more complex legislation and regulation, the Canadian Charter of Rights and Freedoms, electronic technology, mobility, perceived shortfalls in legal service in remote regions of the country and consumer awareness.<sup>3</sup>
  
11. Legal education, like the profession itself, has undergone significant change as well. The demand for both law school admission and admission to the bar has increased significantly, contributing to that change.<sup>4</sup>
  
12. In addition, in recent years the Federation has facilitated much greater mobility in the profession thereby creating greater opportunities for national practice, but without having articulated national standards for entry into the profession. The Federation is in the process of developing a Model Code of Professional Conduct. Given the other developments that relate to the credentialing process as described later in this draft discussion paper, it appears timely to review the question of credentialing to determine whether national standards can be developed that will fit with local bar control over entry into the profession.

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<sup>2</sup> Although some changes were made to the 1957 requirements in 1969, these did not entail a full reconsideration. For that reason they are still referred to in relation to 1957.

<sup>3</sup> This diversity and complexity are noticeable around the world.

<sup>4</sup> Part of this change includes the increasing export of Canadian university graduates to foreign law schools.

13. The following factors have been influential in leading the Federation (and the Law Society of Upper Canada) to undertake a review both of what is referred to as the “approved LL.B./J.D. law degree” and the requirements of the National Committee on Accreditation:
- a. The amended 1957 requirements for the approved law degree reflect a reality of legal education that is now woefully out of date.<sup>5</sup> They contain no regular review mechanism and were prepared by one law society (Upper Canada) and tacitly accepted by others, rather than produced through national consensus. To continue to rely upon them in the face of the other factors set out below, the reality of the current legal education landscape and the nature of the practice of law, is not in the public interest.
  - b. In 2006 and 2007 two Canadian universities submitted proposals to the Ministry of Training, Colleges and Universities in Ontario and the Law Society of Upper Canada for the establishment of new law faculties. The amended 1957 requirements for common law programs upon which they have based their proposals do little to address what is necessary in the 21<sup>st</sup> century to establish a faculty that will produce an approved law degree for the purposes of entrance into the licensing process. Other universities across the country may also be interested in establishing law faculties. It is worth noting that the last new faculty of law established in Canada was at the University of Calgary in 1979.<sup>6</sup>
  - c. The *Fair Access to Regulated Professions Act* has recently been enacted in Ontario and similar legislation is likely to be enacted in Manitoba and possibly other provinces. The Act articulates the requirement for the admission processes of all self-regulated professions to be transparent, objective, impartial and fair. The Law Society of Upper Canada, and soon the Law Society of Manitoba, must ensure that their processes meet these criteria and that those of their 3<sup>rd</sup> party accreditor (the National Committee on Accreditation) also meet the criteria. Given the requirements of the Act, there is an inextricable link between the requirements for the approved LL.B./J.D. law degree and those for the certificate of

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<sup>5</sup> In 1957, for example, there was no Canadian Charter of Rights and Freedoms, no human rights legislation, no privacy law, no intellectual property law, and little resembling ADR as a discipline.

<sup>6</sup> In 1994 responsibility for recognizing law degrees was passed to the National Committee on Accreditation, although the Law Society of Upper Canada has taken the position that it should provide the applicants with its views on the proposal before the Committee considers it. The Federation website states the following:

With the dissolution of the Joint National Committee on Legal Education in February 1994, the Federation has decided to transfer the responsibilities of the Portability Subcommittee to the National Committee on Accreditation. The Portability Subcommittee was formed by the Federation to assess and recommend to the Law Societies the recognition of new full-time, part-time or joint degree programs from all Canadian law schools.

accreditation. There is a pressing need to ensure that the two approaches can be reconciled in an effort to ensure there are no unreasonable barriers to admission for the internationally trained. A brief summary of the Act's provisions is set out at **APPENDIX 2**.

- d. The number of candidates seeking a certificate of accreditation from the National Committee on Accreditation has increased dramatically since the National Committee on Accreditation was established in 1977. At the same time, candidates are becoming a more diverse group in terms of both country of origin and legal training, including,
  - i. Canadian residents who go abroad for their law degree to a variety of universities, in particular those in England, Scotland, Australia and the United States and then seek to return to Canada<sup>7</sup>;
  - ii. internationally trained candidates who receive their law degrees through distance learning;
  - iii. internationally trained candidates with one and two year law degrees;
  - iv. internationally trained candidates with law degrees obtained immediately following graduation from high school; and
  - v. internationally trained candidates with law degrees obtained by way of examination only.

The more complex international education becomes the more important it is to be able to rationalize the National Committee on Accreditation requirements in tandem with the requirements for the approved LL.B./J.D. law degree. Background information on the National Committee on Accreditation is set out at **APPENDIX 3**. Statistical information is set out at **APPENDIX 4**.

- e. It is increasingly apparent that most other self-regulating professions and other common law legal jurisdictions take a more direct role in articulating the competencies of which a person intending to practise a profession should have acquired knowledge and understanding at the completion of their LL.B./JD. law degree. This is done to meet the responsibility such professions have for protecting the public interest. The Canadian legal profession has this same responsibility.

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<sup>7</sup> Approximately 30% of NCA applicants are Canadian and the number is increasing.

**B. INITIAL CONSIDERATIONS UNDERLYING THE TASK FORCE'S ONGOING DISCUSSIONS**

**Credentialing Lawyers for Practice in the 21<sup>st</sup> Century**

14. Credentialing lawyers for the practice of law is carried out by the law societies of the respective provinces and territories. Traditionally, the requirements for admission have involved three elements – a law degree from a Canadian law school or its equivalent, a period of articles with an approved principal and successful completion of the bar admission program offered by the credentialing bar.
15. This Task Force has been mandated to look at the first of these requirements and to determine whether it is timely to propose a national standard for the LL.B./J.D. law degree that will satisfy this requirement. Such a standard will assist proponents of new law school programs, will assist in the objective assessment of international law programs and will provide the type of transparent standards that are increasingly seen as appropriate for the regulation of professionals.

**Role of the law societies related to the approved law degree**

16. Provincial ministries with authority over colleges and universities approve the establishment of new law schools and grant those law schools the right to bestow LL.B. or J.D. degrees. Law schools set the academic curriculum and determine the nature of any particular focus with which they wish the school to be identified. Academic freedom is an integral component of the university structure.
17. There is a strong tradition within the legal education system, particularly in North America, that respects the concept that law school education is not simply about qualifying individuals to become practitioners of a profession, but is an intellectual pursuit that positions its graduates to play myriad roles in and make valuable contributions to the society into which they graduate.

18. Within this framework, however, law societies have a significant role to play. They have the authority and responsibility to determine what requirements a candidate who seeks entrance to the practice of law must meet. This is because as regulators of the profession in the public interest one of their core mandates is to ensure the competence to serve the public of those admitted to the bar.<sup>8</sup>
19. For example, to date the Task Force has discussed whether a consensus can be reached that to be authorized to practise law in a common law jurisdiction a candidate should be required to demonstrate competency in specific knowledge-based areas of the law (such as constitutional law), basic skills required of a competent lawyer (such as drafting and analyzing contracts) and an understanding of the ethical framework in which a lawyer functions. Law schools have traditionally provided the first of these requirements and in recent years have also given increased instruction in the skills and ethics components.
20. It might well be said though that law societies as regulators of the legal profession have been remiss in providing adequate guidance as to what are the *essential* elements of preparation for those students who intend to practise law.
21. A recent study by the Carnegie Foundation for the Advancement of Teaching entitled *Educating Lawyers: Preparation for the Practice of Law* has suggested a need for a more integrated approach to the preparation for practice, particularly in relation to the development of lawyering skills and an understanding of the stringent ethical requirements that apply to practising lawyers. A Carnegie Foundation summary of the study is set out at **APPENDIX 6**. The Task Force has found the report instructive and is continuing to consider its implications and relevance to the Task Force's work.

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<sup>8</sup> This authority is the same in a number of other common law jurisdictions such as the United States, Australia, New Zealand and England and Wales. A comparative chart is set out at **APPENDIX 5**.

22. In considering its approach, then, the Task Force is cognizant of the importance of balancing the regulators' responsibilities with the academic autonomy of the law schools in a manner that respects both, but also achieves the common objectives of all the participants in the process of preparing those students who wish to practise law for that practice.

### **Influence of External Forces**

23. In recent years there has been increasing focus on whether professions are capable of governing their members in the public interest. A number of common law jurisdictions around the world, in particular in England and Wales and in Australia, have made fundamental changes to the governance of the legal profession that have significantly altered the way in which the professions are regulated.
24. Ontario's *Fair Access to Regulated Professions Act* is significant for many reasons, not the least of which is that it imposes a third party scrutiny on professions that is direct, prescribed and regular. Although only one legislature has enacted legislation of this nature, another will shortly do so and additional provinces may do so in the future. Whether or not other provincial legislatures adopt similar legislation, the goal of a transparent, objective, fair and impartial standard for entry to the practice of law is one that can readily be embraced by all.
25. In the Task Force's view, this legislative standard has immediate implications for the National Committee on Accreditation and for the importance of ensuring that its requirements can be reconciled with those of the approved LL.B./J.D. law degree.
26. More generally, the Act should generate for law societies a new awareness of their accountability to ensure that they are meeting their responsibilities related to

call to the bar in a clear, current, defensible manner that can be articulated and defended and that is regularly reviewed.

### **Reviewing the amended 1957 Requirements – a National Standard**

27. The 1957 requirements and their amendment were born out of the particular manner in which legal education in Ontario developed. The Law Society of Upper Canada had its own law school from as early as 1862 and more permanently from 1889. There were other law schools in the province, but until 1957 the Law Society had not given them complete recognition. The 1957 requirements reflected the change in law school recognition in Ontario and were originally intended to address that province's reality. For 50 years they have remained the only articulated standard across the country.
28. What replaces the 1957 amended requirements should reflect a national discussion and a national standard for entrance into the practice of law in common law jurisdictions and should act as the foundation for consideration of a number of legal education related matters, namely,
  - a. approved law degree requirements;
  - b. the basis for the National Committee on Accreditation requirements; and
  - c. guidance for new law school applications for degree approval.

### **Courses versus Competencies in the approved law degree**

29. Law school is a dynamic environment, constantly seeking to adapt to the changing societal and legal landscape in which its students will find themselves upon graduation. Legal education must reflect that dynamic ebb and flow and the wide range of uses to which graduates will put their law degree.
30. The practice of law is equally dynamic. It is readily apparent to the observer of the profession that areas of practice, specialization of practice and societal roles for lawyers have evolved and changed substantially over even the last four or five decades.

31. As the Task Force considers the approved LL.B./J.D. law degree, it is aware of this dynamic landscape. It is of the view, however, that within that ever-changing landscape where flexibility is increasingly important there are nonetheless certain fundamental lawyering competencies that are essential for a practising Canadian lawyer.
32. It understands that law schools are concerned about the prospect of a law school curriculum effectively circumscribed by requirements that reduce the freedom with which students may develop their interests or preferred areas of specialization or which is too rigid to be adaptable to changing realities.<sup>9</sup> The Task Force agrees that an approved law degree that simply lists a whole series of substantive law courses, along the lines of the amended 1957 requirements would be a backward looking document that would serve neither law societies' goals nor law schools' priorities.
33. For that reason, as the Task Force discusses the components for the approved LL.B./J.D. law degree, it is concentrating on the *competencies* that applicants for entrance into the practice of law should demonstrate. Such competencies might be satisfied in a number of ways through a curriculum that the law schools develop.
34. This approach would also allow for application of the competencies to the National Committee on Accreditation process.

## **C. TASK FORCE'S DRAFT DISCUSSION OUTLINE**

### **Foundations/Competencies**

35. In keeping with the considerations discussed above, the Task Force has begun considering the foundations/competencies that it considers essential for graduates seeking entrance into the practice of law in the Canadian context.

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<sup>9</sup> The Task Force has noted that law schools across the country vary significantly on the issue of mandatory courses, in some cases requiring students to take many more courses than are set out in the amended 1957 requirements. A chart is set out at **APPENDIX 7**.

36. It has examined the approaches used by other common law jurisdictions, has reviewed the working documents of the Law Society of Upper Canada's Task Force and has created for discussion purposes a possible framework, set out at **APPENDIX 8**.
37. In developing the framework the Task Force has so far considered the following:
- a. In contemplating what should be included, the Task Force has been considering those competencies/foundations that are essential to lawyering. What are the basic knowledge and abilities that are fundamental to the practise of law in the Canadian context? At what stages in the education continuum should they be acquired? The debate is an intricate one and there may be differing views as to the qualification of a competency for inclusion. The debate should not be about specific courses that law schools should teach. In the Task Force's view and in keeping with its belief that it should balance regulators' responsibilities and legal educators' priorities, it is endeavouring to restrict itself to the 'essential' competencies that prepare an LL.B./J.D. graduate for the practice of law in Canada.
  - b. There appears to be little reason to change the longstanding requirements for the courses that form the foundations of the common law (torts, contract, property, criminal, constitutional and civil procedure<sup>10</sup>). These requirements are taught in common law jurisdictions around the world and provide an important introduction to the legal landscape in which Canadian law graduates will find themselves. Law schools appear to have little difficulty with or complaint about these requirements. They are also important for those internationally trained lawyers who seek a certificate of qualification from the National Committee on Accreditation. The Task Force is of the view that it should not specify the number of credit hours that must be devoted to these requirements. Indeed it is worth noting that in its recent additions to its first year curriculum Harvard Law School has accommodated the increase in courses by reducing the number of credit hours spent on the foundation subjects. (See **APPENDIX 9**.) The Task Force is also of the view that the foundations should emphasize the Canadian legal context.

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<sup>10</sup> In continuing to include civil procedure the Task Force is of the view that the purpose of such a requirement is to familiarize students with the nature and purpose of civil processes, not to require a clause-by-clause analysis of jurisdiction specific civil procedure rules. The Task Force is of the view that, as a part of a mandatory curriculum, this broader approach to the subject provides an important component of a student's education. It does not believe a rule based clause-by-clause approach provides sufficient value to be a mandatory component.

- c. It has been suggested that an alternative approach is to set out the competencies as required or recommended law school *offerings*, rather than requirements graduates seeking to enter the practice of law must have met. This would be similar to the section in the amended 1957 requirements that sets out a list of areas in which law schools must offer instruction. The Task Force is not persuaded that this approach would meet the regulators' responsibilities to the public interest.
38. The Task Force has just begun its analysis of the framework. In the course of its discussions a number of related issues have been identified for further consideration in its subsequent reports. These include,
- a. addressing certain other components of the law degree currently addressed in the 1957 amended requirements including,
    - i. prerequisites for law school; and
    - ii. required credit hours for the LL.B./J.D. law degree;<sup>11</sup>
  - b. addressing requirements for joint degrees;<sup>12</sup>
  - c. whether on-line<sup>13</sup> legal education programs should be considered eligible for approval as an approved LL.B./J.D. degrees;
  - d. considering the role, if any, for a national licensing examination;
  - e. developing the regulatory structure that would be created around the framework, including a compliance structure for current and new law schools;<sup>14</sup>
  - f. determining what national body will monitor and review the approved LL.B./J.D. degree and coordinate equivalency of international degrees; and
  - g. determining an implementation timeline.

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<sup>11</sup> At least in its preliminary discussion on these components the Task Force has not identified any reason to change the provisions in the 1957 amended requirements related to this issue. These provisions are relevant both domestically and in the context of the National Committee on Accreditation requirements.

<sup>12</sup> This is relevant both domestically and in the context of the National Committee on Accreditation requirements. In its preliminary discussion the Task Force has not been considering changes to the joint degree regime, but rather has discussed commenting on them as part of the approved structure.

<sup>13</sup> This is to be contrasted with video-conferencing.

<sup>14</sup> A compliance structure would need to be administratively reasonable, uniformly applied across the country, easily verified, and capable of assuring students that regulators will recognize their degree.

#### **D. NEXT STEPS**

39. The Task Force has developed a process and timeline for its next steps, set out at **APPENDIX 10**. In doing so it has kept in mind that its work will be considered not only by the Federation Council, but also by each affected law society, which will engage in whatever individual consultation process it considers appropriate. In the Task Force's view, this is the most effective approach. Its own recommended consultation to national bodies, therefore, sets the stage for the provinces and territories to consult.
40. This draft discussion paper reflects the Task Force's initial considerations. From the comments it receives on this draft discussion paper and the discussion it undertakes of the issues set out in paragraph 38 above, it will then develop a full report to form the basis of consultation. The Task Force envisions multiple opportunities for comment on its work, as set out in Appendix 10.
41. The Task Force will specifically provide the following groups with opportunities to comment on this draft discussion paper and on future reports:
- a. Federation Council and Federation participants at the Regina meeting;
  - b. Council of Canadian Law Deans;<sup>15</sup>
  - c. Provincial and territorial law societies;
  - d. The Law Society of Upper Canada Licensing and Accreditation Task Force;<sup>16</sup>
  - e. The National Committee on Accreditation;<sup>17</sup>
  - f. Canadian Bar Association;<sup>18</sup> and
  - g. Association of Canadian Legal Education Directors.

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<sup>15</sup> The Task Force's Chair has been invited to attend a meeting of the Council of Canadian Law Deans on November 18.

<sup>16</sup> The Task Force meets next on November 20.

<sup>17</sup> The Committee meets next in December.

<sup>18</sup> Consultation with provincial and territorial branches will be left to the CBA and/or law societies to determine.

**APPENDIX 1**  
**1957 REQUIREMENTS**











## APPENDIX 2

### Highlights of the *Fair Access to Regulated Professions Act, 2006*

- purpose of Act stated as helping to ensure that regulated professions and individuals applying for registration are governed by **registration practices** that are transparent, objective, impartial and fair
- positive duty on regulated professions to provide registration practices that are transparent, objective, impartial and fair; includes responsibility to ensure that practices of third party assessors of qualifications (NCA) meet the test
- requires regulated professions provide detailed information to applicants relevant to their registration practices
- all decisions and responses to applicants relevant to registration must be made within reasonable time; there must be an internal review or appeal from a registration decision within a reasonable time and the applicant is entitled to make submissions
- regulated professions must ensure training for assessors, adjudicators and others making registration decisions
- applicants are entitled to access to records relevant to their application, but access may be refused in certain circumstances, including that the record is subject to legal privilege
- the Fair Registration Practices Commissioner (FRPC) has broad powers under the Act to assess registration practices, specify audits, require reports and information from regulated professions, advise ministries and organizations on the Act, create different classes of regulated professions; the FRPC reports annually to the Minister of Citizenship and Immigration and the report will be tabled in the Ontario Legislature
- establishes an Access Centre for Internationally Trained Individuals to assist ITIs with information and assist professions and others with advice on implementation of the Act
- imposes reporting obligations on professions, including a review of their registration practices, a requirement to be audited, preparation of an annual fair registration practices report, provision of any information related to compliance with the Act.
- FRPC has authority to order that a profession has failed to comply with the Act. The FRPC cannot order a profession to make, amend or revoke any regulation it has authority to make under its governing Act, but can recommend that the profession make, amend or revoke or can recommend to the profession's Minister that he or she recommend or require the profession to so act; an appeal from an FRPC order is to the Divisional Court with leave and only on a question of law.
- The Act sets out offences under the Act and penalties. In any conflict between the Act and any other legislation, the Act prevails to the extent of the conflict.
- The regulations may create different classes of regulated professions and impose different requirements in respect of a class.

## NATIONAL COMMITTEE ON ACCREDITATION OVERVIEW

### A. Mandate

The National Committee on Accreditation ("NCA") is a standing Committee of the Federation of Law Societies of Canada and is made up of representatives from the Council of Canadian Law Deans, members of the practising bar, and members involved with the administration of provincial law societies.

The NCA evaluates the legal training and professional experience of persons with foreign or non-common law legal credentials (including Québec) who wish to be admitted to a common law bar in Canada. Upon completion of its review, the NCA issues a recommendation describing the scope and extent of any further legal education that in its opinion the applicant needs to complete to equal the standard of those who have earned a Canadian LL.B. degree.

The Certificate of Qualification does not duplicate the LL.B. degree. Applicants who wish to obtain an LL.B. degree should apply to a law school. The NCA evaluates all applicants, whether Canadians with foreign legal education, foreign nationals with foreign legal education and Quebec civil law degrees, on their academic and professional profile.

The National Committee on Accreditation does not evaluate credentials for lawyers who want to apply to and become members of the Barreau du Québec or the Chambre des notaires du Québec, which have their own evaluation procedures.

The NCA applies a uniform standard on a national basis so that applicants with foreign law qualifications can apply to the Committee regardless of the common law province in which they wish to practise in Canada. Thus, applicants do not need to satisfy disparate entrance standards to practise law in Canada.

### B. Method of Evaluation

#### 1. Method

The nature of the Committee's mandate is captured in the words used in the Certificate of Qualification. The Certificate states as follows:

*"Having passed the prescribed course of studies required by the National Committee, it is hereby certified that the National Committee on Accreditation considers (name of applicant) to have education and training equivalent to a graduate of an approved Canadian law school."*

Thus, the Committee certifies that an applicant has:

- an understanding and knowledge of Canadian law, and
- knowledge equivalent to that of a graduate of a Canadian common law LL.B. program.

"Equivalence to an approved Canadian LL.B. degree" serves as the Committee's benchmark when it evaluates applicants with foreign legal education or training. The Certificate of Qualification does not, however, duplicate the LL.B. degree, which varies between law schools. NCA applicants may be asked to challenge examinations in subjects that all law schools may not require for the LL.B. degree.

The NCA bases its recommendation on the applicant's legal background, both academic and professional. It takes into account the source country of legal education (common law, non-common law, "hybrid"), subject matter studied, academic marks and standing, nature of the degree granting institution, professional qualifications and length and nature of professional legal experience.

The NCA reviews each applicant's file individually. Upon completion of its review, the NCA issues a recommendation that the applicant:

1. pass examinations in specified areas of Canadian law;
2. take further education at a Canadian law school with a specified program of studies; or
3. complete a Canadian LL.B. program.

## **2. Prescribed Subjects/Courses**

The NCA expects applicants to proceed to a bar admission program. Substantive law is not generally taught in Canadian bar admission programs. Rather, the emphasis in most Bar courses is on practical skills and procedure.

Thus, applicants are expected to have sufficient knowledge of Canadian substantive law and procedure before they enter the program.

NCA applicants are expected to demonstrate competence in at least the following basic practice areas:

- Administrative Law
- Business Law (Corporate and Commercial)
- Civil Litigation
- Constitutional Law
- Contracts
- Criminal Law
- Criminal Procedure
- Estate Planning and Administration
- Evidence
- Family Law

- Professional Responsibility
- Property
- Real Estate
- Taxation
- Torts
- Trusts, Equity, Remedies.

### **3. Nature of Recommendations**

The NCA may require applicants to complete successfully a stipulated number of "credit hours" of law studies at a Canadian common law school or write examinations in specific subjects. The number of hours stipulated depends upon the applicant's individual background of legal education and professional experience.

#### **C. Evaluation Guidelines**

The Committee is authorized to issue a Certificate of Qualification to any candidate who has attained education and training equivalent to graduates from a Canadian LL.B. program.

The Committee directs applicants with foreign legal credentials into the appropriate level of legal education in Canada so that they may proceed to admission into a Canadian common law bar on the same basis as domestic law graduates.

Each application is evaluated on an individual basis taking into account the particular circumstances of that individual's educational and professional background.

Factors to be taken into account include: age of degree, academic standing in all years of the LL.B. program, the content of courses, subject matter studied, relevant graduate legal education, law teaching experience and the quality of undergraduate education or training. First, Second, Third and Pass Class standings are grade classifications/rankings. However, some institutions use alphabetic or numeric grading systems.

#### **D. Québec**

The NCA evaluates applicants who have Quebec law degrees (LL.B or LL.L) including graduates of the Diplôme d'études supérieures spécialisées en Common Law nord-américaine (DESS) program of the University of Montreal or the Diplôme de deuxième cycle de common law et droit transnational (DDCCLDT) program of the University of Sherbrooke. Applicants are evaluated according to their particular educational background and relevant professional experience.

Applicants who graduate from a law school in the Province of Québec are evaluated by the Committee according to their particular educational background and relevant professional experience.

Québec graduates receive full credit for successfully completed courses in federal law.

Applicants who have not been admitted to the Bar of Québec are asked to complete the entire spectrum of common law courses through attendance for one year (approximately 32 credit hours) at a common law faculty in Canada.

Applicants who graduate with a "pure" civilian degree and are admitted to the Barreau du Québec are usually asked to write examinations in some or all of the following subjects:

- Contracts
- Civil Procedure
- Trusts/Equity
- Torts
- Real Property
- Commercial Law
- Family Law.

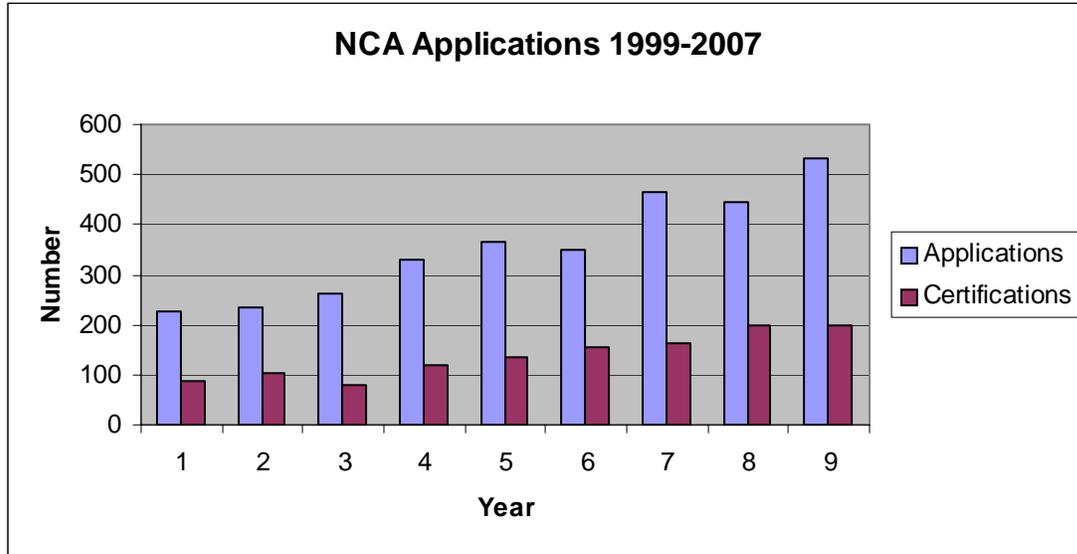
Applicants who have substantial (10 years) professional experience in common law areas of practice are considered on a case-by-case basis and evaluated upon the basis of their education, areas of practice and legal experience.

Graduates from civil law programs that also have some common law component typically receive credit for the common law portion of their studies. For example, a graduate with a civil law degree who has successfully completed common law Contracts, Torts or Real Property would receive credit for those subjects and be asked to complete a reduced common law program.

#### **E. Status of Certificate of Qualification**

The Certificate of Qualification entitles one to enter the Bar Admission Course in Ontario and is officially recognized by the Law Societies of Saskatchewan, British Columbia, Prince Edward Island, and Alberta as equivalent to graduation from an approved Canadian law school. Other law societies and law schools use the NCA's recommendation on a more informal basis.

National Committee on Accreditation Applications



Year	Applications	Certifications
1999	225	89
2000	235	105
2001	261	79
2002	328	120
2003	367	137
2004	348	153
2005	464	163
2006	446	200
2007	532	199

APPENDIX 5

REQUIREMENTS FOR APPROVED LAW DEGREE

(curriculum only)

United States	England and Wales	Australia	New Zealand
<p><b>(From the American Bar Association – Section of Legal Education and Admissions to the Bar – Standards and Rules of Procedure)</b></p> <p><b>A law school shall maintain an education program that prepares its students for admission to the bar and effective and responsible participation in the legal profession.</b></p> <ul style="list-style-type: none"> <li>prepares its students to address current and anticipated legal problems;</li> </ul> <p><b>A law school shall require that each student received substantial instruction in:</b></p> <ul style="list-style-type: none"> <li>the substantive law generally regarded as necessary to effective and responsible participation in the legal profession;</li> <li>legal analysis and reasoning, legal research, problem solving</li> </ul>	<p><b>(Qualifying Law Degree is a degree that satisfies the requirements of the Bar Standards Board and the Law Society contained in the Joint Statement 1999 or its predecessor.)</b></p> <p>Course of study must include coverage of those legal subjects referred to in the professional bodies’ qualifying regulations as the <i>Foundations of Legal Knowledge</i>, as follows:</p> <ul style="list-style-type: none"> <li>Public law, including Constitutional Law, Administrative Law and Human Rights;</li> <li>Law of the European Union;</li> <li>Criminal law;</li> <li>Obligations including, contract, restitution and tort; -Property law; and</li> <li>Equity and the law of trusts.</li> <li>In addition students are</li> </ul>	<p>Australia has adopted uniform admission rules across all states. Despite this there are still variations in admission requirements, but all states require four components:</p> <ul style="list-style-type: none"> <li>Academic qualification</li> <li>Practical legal training</li> <li>Admission to Supreme Court</li> <li>Practicing certificate</li> </ul> <p>For the purposes of the approved law degree, in all States and Territories the <i>minimum</i> academic requirements are the following 11 areas of study (known as the ‘Priestley Eleven’):</p> <ul style="list-style-type: none"> <li>Criminal law and procedure</li> <li>Torts</li> <li>Contracts</li> <li>Property</li> <li>Equity</li> </ul>	<p><b>Council of Legal Education requirements</b></p> <p>(Couldn’t find information directly; obtained from law school websites; slight variations between schools)</p> <p><b>Compulsory courses</b></p> <p><b>1<sup>st</sup> year</b></p> <ul style="list-style-type: none"> <li>The Legal System (two components – nature, function, origins of law in NZ society and how law made and applied in NZ including statutory analysis, legislative process, judicial reasoning, doctrine of precedent.)</li> </ul> <p><b>2<sup>nd</sup> year</b></p> <ul style="list-style-type: none"> <li>Criminal</li> <li>Public (includes constitutional)</li> </ul>

<p>and oral communication;</p> <ul style="list-style-type: none"> <li>• writing in a legal context, including at least one rigorous writing experience in first year and at least one additional rigorous writing experience after the first year;</li> <li>• other profession skills generally regarded as necessary for effective and responsible participation in the legal profession; and</li> <li>• the history, goals, structure, values, rules, and responsibilities of the legal profession and its members.</li> </ul> <p>A law school shall offer substantial opportunities for,</p> <ul style="list-style-type: none"> <li>• live client or other real-life practice experiences...;</li> <li>• student participation in pro bono activities; and</li> <li>• Small group work through seminars, directed research, small classes or collaborative work.</li> </ul>	<p>expected to have received training in legal research. The are specified knowledge and transferable skills which should be addressed in any course of study leading to the award of a degree recognized by the Law Society and the General Council of the Bar as satisfying the initial or academic stage of training.</p> <p><i>See Joint Statement of Law Society of England and Wales and Bar Council, which follows this chart.</i></p>	<ul style="list-style-type: none"> <li>• Company law</li> <li>• Administrative law</li> <li>• Federal and state constitutional law</li> <li>• Civil procedure</li> <li>• Evidence</li> <li>• Professional conduct (including basic trust accounting).</li> </ul> <p>Within the practical legal training programs (different for barristers and solicitor) the Revised Uniform Admission Rules recommend that students should have to achieve standards of competency in ten of the following areas of practice:</p> <ul style="list-style-type: none"> <li>• Administrative law</li> <li>• Civil litigation</li> <li>• Commercial and corporate</li> <li>• Consumer law</li> <li>• Criminal law</li> <li>• Employment and industrial relations</li> <li>• Ethics and professional responsibility</li> <li>• Family law</li> <li>• Lawyers' skills</li> <li>• Planning and</li> </ul>	<ul style="list-style-type: none"> <li>• Torts</li> <li>• Contract</li> <li>• Legal Research 1</li> </ul> <p>3<sup>rd</sup> /4<sup>th</sup> year</p> <ul style="list-style-type: none"> <li>• land law</li> <li>• equity</li> <li>• jurisprudence</li> <li>• legal ethics</li> <li>• legal research 2</li> </ul>
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		<ul style="list-style-type: none"><li>• environmental law</li><li>• Problem solving</li><li>• Property law</li><li>• Trust and office accounting</li><li>• Wills and estate</li><li>• Work management and business skills.</li></ul>	
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**Law Society of England and Wales and General Council of the bar  
Joint Statement on Qualifying Law Degrees**

**Schedule One**

The knowledge and transferable skills which should be addressed in any course of study leading to the award of a degree recognized by the Law Society and General Council of the Bar as satisfying the initial or academic stage of training are as follows:

**a. Knowledge**

Students should have acquired:

- i. Knowledge and understanding of the fundamental doctrines and principles which underpin the law of England and Wales particularly in the Foundations of Legal Knowledge;
- ii. A basic knowledge of the sources of that law, and how it is made and developed; of the institutions within which that law is administered and the personnel who practice law;
- iii. The ability to demonstrate knowledge and understanding of a wide range of legal concepts, values, principles and rules of English law and to explain the relationship between them in a number of particular areas;
- iv. The intellectual and practical skills needed to research and analyse the law from primary resources on specific matters; and to apply the findings of such work to the solution of legal problems; and
- v. The ability to communicate these, both orally and in writing, appropriately to the needs of a variety of audiences.

**b. General Transferable Skills**

Students should be able:

- i. To apply knowledge to complex situations;
- ii. To recognize potential alternative conclusions for particular situations, and provide supporting reasons for them;
- iii. To select key relevant issues for research and to formulate them with clarity;
- iv. To use standard paper and electronic resources to produce up-to-date information;
- v. To make a personal and reasoned judgement based on an informed understanding of standard arguments in the area of law in questions;
- vi. To use the English language and legal terminology with care and accuracy;
- vii. To conduct efficient searches of websites to locate relevant information; to exchange documents by email and manage information exchanges by email;
- viii. To produce word-processed text and present it in an appropriate form.

**Carnegie Foundation Summary: EDUCATING LAWYERS – Preparation for the Practice of Law** (*Published by The Carnegie Foundation for the Advancement of Teaching (2007)*)

The Foundation’s two-year study of legal education involved a reassessment of teaching and learning in American and Canadian law schools today. Intensive fieldwork was conducted at a cross section of 16 law schools during the 1999-2000 academic year. The study re-examines “thinking like a lawyer” – the paramount educational construct currently in use. The report shows how law school teaching affords students powerful intellectual tools while also shaping education and professional practice in subsequent years in significant, yet often unrecognized ways.

What sets [law school] courses apart from the arts and sciences experience is precisely their context—law school as apprenticeship to the profession of law. But there is room for improvement. The dramatic results of the first year of law school’s emphasis on well-honed skills of legal analysis should be matched by similarly strong skill in serving clients and a solid ethical grounding. If legal education were serious about such a goal, it would require a bolder, more integrated approach that would build on its strengths and address its most serious limitations. In pursuing such a goal, law schools could also benefit from the approaches used in education of physicians, teachers, nurses, engineers and clergy, as well as from research on learning.

**Two Major Limitations of Legal Education**

1. Most law schools give casual attention to teaching students how to use legal thinking in the complexity of actual law practice. Unlike other professional education, most notably medical school, legal education typically pays relatively little attention to direct training in professional practice.
2. Law schools fail to complement the focus on skill in legal analyses with effective support for developing ethical and social skills. Students need opportunities to learn about, reflect on and practice the responsibilities of legal professionals.

**Assessment of Student Learning Remains Underdeveloped**

Assessment of what students have learned—what they know and are able to do—is important in all forms of professional education.

Summative assessments are useful devices to protect the public, for they can ensure basic levels of competence. But there is another form of assessment, formative assessment, which focuses on supporting students in learning rather than ranking, sorting and filtering them.

## **Legal Education Approaches Improvement Incrementally, Not Comprehensively**

To a significant degree, both supporters and opponents of increased attention to “lawyering” and professionalism have treated the major components of legal education in an *additive* way, not an integrative way.

Moreover, efforts to add new requirements are almost universally resisted, not only in legal education, but in professional education generally, because there is always too much to accomplish in too little time.

## **Toward a More Integrated Model: A Historic Opportunity to Advance Legal Education**

Law school provides the beginning, not the full development, of students’ professional competence and identity. At present, what most students get as a beginning is insufficient.

In particular, legal education should use more effectively the second two years of law school and more fully complement the teaching and learning of legal doctrine with the teaching and learning of practice. Legal education should also give more focused attention to the actual and potential effects of the law school experience on the formation of future legal professionals.

## **Recommendations**

### Offer an Integrated Curriculum

To build on their strengths and address their shortcomings, law schools should offer an integrated, three-part curriculum: (1) the teaching of legal doctrine and analysis, which provides the basis for professional growth; (2) introduction to the several facets of practice included under the rubric of lawyering, leading to acting with responsibility for clients; and (3) exploration and assumption of the identity, values and dispositions consonant with the fundamental purposes of the legal profession. Integrating the three parts of legal education would better prepare students for the varied demands of professional legal work.

### Join “Lawyering,” Professionalism and Legal Analysis from the Start

The existing common core of legal education needs to be expanded to provide students substantial experience with practice as well as opportunities to wrestle with the issues of professionalism. Further, and building on the work already underway in several law schools, the teaching of legal analysis, while remaining central, should not stand alone as it does in so many schools. The teaching of legal doctrine needs to be fully integrated into the curriculum. It should extend beyond case-dialogue courses to become part of learning to “think like a lawyer” in practice settings.

## Make Better Use of the Second and Third Years of Law School

[Law school] graduates mostly see their experiences with law-related summer employment after the first and second years of law school as having the greatest influence on their selection of career paths. Law schools could give new emphasis to the third year by designing it as a kind of “capstone” opportunity for students to develop specialized knowledge, engage in advanced clinical training, and work with faculty and peers in serious, comprehensive reflection on their educational experience and their strategies for career and future professional growth.

### Recognize a Common Purpose

Amid the useful varieties of mission and emphasis among American law schools, the formation of competent and committed professionals deserves and needs to be the common, unifying purpose. A focus on the formation of professionals would give renewed prominence to the ideals and commitments that have historically defined the legal profession in America.

### **Examples from the Field**

Some law schools are already addressing the need for a more dynamic, integrated curriculum.

The law schools of New York University (NYU) and the City University of New York (CUNY) each exemplify, in different ways, ongoing efforts to bring the three aspects of legal apprenticeship into active relation. CUNY cultivates close interrelations between doctrinal and lawyering courses, including a resource-intensive investment in small sections in both doctrinal and lawyering seminars in the first year and a heavy use of simulation throughout the curriculum. The school also provides extensive clinical experience linked to the lawyering sequence. At NYU, doctrinal, lawyering and clinical courses are linked in a variety of intentional ways. There, the lawyering curriculum also serves as a connecting point for faculty discussion and theoretical work, as well as a way to encourage students to consider their educational experience as a unified effort.

Yale Law School has restructured its first-year curriculum by reducing the number of required doctrinal courses and encouraging students to elect an introductory clinical course in their second semester. This is not full-scale integration of the sort necessary to legal education, but it and other efforts like it point toward an intermediate strategy: a course of study that encourages students to shift their focus between doctrine and practical experience not once but several times, so as to gradually develop more competence in each area while making more linkages between them.

Southwestern Law School has instituted a new first-year curriculum, in which students take four doctrinal courses in their first semester rather than five, allowing for an intensified two-semester, integrated lawyering course plus an elective course in their second semester. The lawyering course expands a legal writing and research experience

to include detailed work in legal methods and reasoning, as well as interviewing and advocacy.

### **The Rewards of Innovation**

As desirable—and necessary—as developing a more balanced and integrated legal education might be, change does not come without effort and cost. Forward-thinking faculty and schools will have to overcome significant obstacles. A trade-off between higher costs and greater educational effectiveness is one. Resistance to change in a largely successful and comfortable academic enterprise is another.

It is well worth the effort. The calling of legal educators is a high one—to prepare future professionals with enough understanding, skill and judgment to support the vast and complicated system of the law needed to sustain the United States as a free society worthy of its citizens' loyalty.

**REQUIRED COURSES AT CANADIAN COMMON LAW SCHOOLS FOR LL.B  
DEGREE**

(prepared in 2005; the chart will be updated where necessary)

1. Schools	2. 1 <sup>ST</sup> Year	3. Compulsory Courses Upper Years
U Vic	Constitutional, Contracts, Property, Torts, Criminal, LRW, Legal Process, Law, Legislation and Policy	Civil Procedure and Drafting, Evidence, Major Research Paper
UBC	Constitutional, Contracts, Property, Torts, Criminal, Transnational Law. Regulatory State, Law in Context	1 from each of these 4 categories: 1) Public Regulation: 1 of Aboriginal Law, Administrative, Taxation 2) Private Regulation: 1 of Corporations, Family, Trusts 3) Procedure: 1 of Civil Procedure, Evidence, Criminal Procedure 4) Law and Society Studies: 1 from a list courses that varies annually
U of C	Contracts, Property, Torts, Criminal, LRW, Foundations of Law, Law Legislation and Policy, Legal Perspectives	Administrative, Constitutional, Civil Procedure, Evidence, Advanced Legal Research, Trial Advocacy
U of A	Contracts, Property, Torts, Criminal, LRW, Foundations of Law.	Civil Procedure, Evidence, Administrative, Conflicts, Professional Responsibility, Corporate, Jurisprudence, Legal History
U of S	Contracts, Property, Torts, Criminal, Constitutional	
U of Manitoba	Contracts, Property, Torts, Criminal, LRW, Constitutional, Foundations of Law	Civil Procedure, Evidence, Administrative, Trial Advocacy, Professional Responsibility, Negotiations, Corporate, Trusts, Family, Taxation
Osgoode Hall	Contracts, Property, Torts, Criminal, LRW, Constitutional, Civil Procedure, Law Legislation and Policy	
Ottawa	Contracts, Property, Torts, Criminal, LRW, Constitutional.	Civil Procedure.
Queen's	Contracts, Property, Torts, Criminal, LRW, Constitutional.	Civil Procedure, Appellate Advocacy

U of T	Contracts, Property, Torts, Criminal, Legal Process, Constitutional.	
Western	Contracts, Property, Torts, Criminal, LRW, Constitutional.	Civil Procedure, Evidence, Administrative, Corporate, Trusts, Taxation
Windsor	Contracts, Property, Criminal, LRW, Constitutional, Access to Justice	Torts, Civil Procedure
UNB	Contracts, Property, Criminal, LRW, Constitutional, Foundations of Law, Trial Advocacy	Civil Procedure, Evidence, Administrative, Conflicts, Professional Responsibility, Corporate
Dalhousie	Contracts, Property, Criminal, LRW, Foundations of Law, Law Legislation and Policy.	Constitutional, Civil Procedure, Professional Responsibility

McGill (to be added)

Moncton (to be added)

### **Law School Courses required by Canadian Law Societies (common law) - 2007**

	Required courses	Comments
Newfoundland	Yes	Administrative Law, Canadian Constitutional Law, Civil Procedure, Contracts, Personal Property and Real Property (N.B. The Property Law course which is usually taught in 1st year of Law School is sufficient for the Real and Personal Property requirements), Torts and Criminal Law Also courses strongly recommend for those intending to practice. While recommended, the failure to complete any or all of these recommended courses is not a bar to admission. The recommended courses are: Commercial Law, Corporation Law, Evidence, Family Law, Wills, Trusts and Criminal Procedure (i.e. an advanced course beyond the 1st year Criminal Law course).
PEI	Yes	Canadian Constitutional Law, Civil Procedure, Contracts, Criminal, Criminal Procedure, Property Law, Torts, Ethics and Professional Responsibility, Commercial Law, Corporate Law (ie. Business Administration), Evidence, Family Law, Wills and/or Trusts (one course only),

		Administrative Law
New Brunswick	No	Expect to recommend courses as part of bar admission education review now underway
Nova Scotia	No	
Ontario	No	There is an historical requirement (constitutional, civil pro, contracts, personal & real property, torts, criminal) that is apparently no longer in force
Manitoba	No	Used to assume that students came from U of M, which has long list of mandated courses, but don't care if have non U of M degree
Saskatchewan	No	
Alberta	No	
BC	No	

Compiled October 5, 2005 by D. F. Thompson

File: Data/jc/lawschoolcourses-lawsoc-req.doc

**Working document on required foundations/competencies**

- The foundations of the common law form the underpinning to most areas of Canadian legal practice. Graduates will have acquired knowledge and understanding of the doctrines, principles and sources of the common law, how it is made and has been developed in Canada and the institutions within which law is administered in Canada. Among these competencies will be an understanding of the following:
  - Contracts, torts and property law
  - Canadian Criminal law, and
  - Civil Procedure<sup>19</sup>
  
- The Canadian legal profession operates within an established ethical framework and with professional responsibilities that circumscribe and define its members' behaviour. Graduates will have acquired knowledge and understanding of these fundamental doctrines and principles.
  
- The constitutional law of Canada, both in its elaboration of the division of legislative powers and in its protection of human rights through the *Charter of Rights and Freedoms*, is a foundational competency for any lawyer. Graduates will have acquired knowledge and understanding of Canadian constitutional law, including principles of human rights and *Charter* values.
  
- Equitable principles affect a multitude of legal relationships in the Canadian legal context. Graduates will have acquired knowledge and understanding of equitable principles, including fiduciary obligations, trusts and equitable remedies.
  
- Given the integral role that legislation and regulation play in the legal system, graduates will have acquired knowledge and understanding of the principles of

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<sup>19</sup> See footnote 10.

statutory analysis and regulatory and administrative law in the Canadian legal context.

- Legal problems (regardless of substantive area) are complex, multi-layered and challenging and require specific skills directed at solving them. Graduates will have acquired skills in dispute resolution and advocacy and knowledge and understanding of their evidentiary underpinnings.
- The law is an intellectual discipline, requiring of members of the profession the capacity to research and analyze the law, to apply findings to solve legal problems, to reason, communicate, adapt and evolve. Graduates will have acquired legal research skills and written and oral communication skills specific to law.

#### **Required Foundations/Competencies**

For its LL.B./J.D. degree to be approved for the purpose of admission of its graduates into the practice of law, a law school's graduates will have acquired knowledge and understanding of the following in the Canadian legal context:

- Foundations of common law, including,
  - the doctrines, principles and sources of the common law, how it is made and developed and the institutions within which law is administered in Canada.
  - Contracts, torts and property law.
  - Canadian criminal law.
  - Civil Procedure.<sup>20</sup>
- Principles of legal ethics and professional responsibility.
- The constitutional law of Canada, including principles of human rights and *Charter* values
- Equitable principles, including fiduciary obligations, trusts and equitable remedies.
- Principles of
  - statutory analysis; and
  - regulatory and administrative law.
- Dispute resolution and advocacy skills and knowledge of their evidentiary underpinnings.
- Legal research skills.
- Oral and written communication skills specific to law.

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<sup>20</sup> See footnote 10.

## Outline of Harvard Law School first year curriculum reform

### HLS faculty unanimously approves first-year curricular reform

The Harvard Law School faculty unanimously adopted a reform of the required first-year curriculum yesterday, after a three-year process of study and consultation with legal academics, faculty from other professional schools, and practicing lawyers.

"This marks a major step forward in our efforts to develop a law school curriculum for the 21st century," said Dean Elena Kagan. "Over 100 years ago, Harvard Law School invented the basic law school curriculum, and we are now making the most significant revisions to it since that time. Thanks to yesterday's unanimous faculty vote, we will add new first-year courses in international and comparative law, legislation and regulation, and complex problem solving -- areas of great and ever-growing importance in today's world. I am extraordinarily grateful to the entire faculty for its vision and support of these far-reaching reforms, which I am confident will give our students the best possible training for the leadership positions they will soon occupy."

Professor Martha Minow, who chaired the process, added: "We believe these changes will better prepare our students to think about and practice in a legal world in which regulations and statutes play an equal or more important role in the creation and elaboration of law as do court decisions; in which transactions and interactions among parties are increasingly global in nature; and in which economic, cultural and technological changes call upon the best lawyers to become skilled in system design, problem solving and creative approaches to issues."

Specifically, the changes seek to ensure:

- greater attention to statutes and regulations;
- introduction to the institutions and processes of public law;
- systematic attention to international and comparative law and economic systems;
- opportunities for students to address alone and in teams complex, fact-intensive problems as they arise in the world (rather than digested into legal doctrines in appellate opinions) and to generate and evaluate solutions through private ordering, regulation, litigation and other strategies;
- more sustained occasions to reflect on the entire enterprise of law and legal studies, the assumptions and methods of contemporary U.S. law and the perspectives provided by other disciplines, and to

develop a common fund of ideas and approaches relevant to designing effective and just laws and institutions.

To pursue these goals, the law school will add three new course requirements to the first-year curriculum:

1. A new course focusing on legislation and regulation;
2. Each student will take one of three specially crafted courses introducing global legal systems and concerns - Public International Law, International Economic Law, and Comparative Law;
3. A new course, Problems and Theories, will focus on problem solving, while introducing students to theoretical frameworks illuminating legal doctrines and institutions.

These reforms complement a reform of the upper level curriculum adopted by the faculty last spring that promotes concentrated and focused study, and application by developing distinctive Programs of Study, organizing classroom, clinical, research, and work opportunities to help students pursue greater progression and depth before graduation. Initial Programs of Study are: Law and Government; Law and Business; Law, Science and Technology; Law and the International Sphere; and Law and Social Change. The new first-year curriculum provides a foundation to enable any student who wishes to pursue an advanced Program of Study. For both sets of reforms, there will be a period of transition and phase-in, and also a process of ongoing assessment of the reforms with opportunities to refine and revise the curriculum over time.

In greater detail, here are descriptions of the new courses:

- **"Legislation and Regulation"**: This course will introduce students to the world of legislation, regulation and administration that creates and defines so much of our legal order. At the same time, it will begin to teach students to think about processes and structures of government and how they influence and affect legal outcomes. The course will introduce students to, and include materials on, most or all of the following topics: the separation of powers; the legislative process; statutory interpretation; delegation and administrative agency practice; and regulatory tools and strategies. The course will naturally lead into, and enable students to get more out of, advanced courses in the 2L and 3L years, on legislation, administrative law, a wide range of regulatory subjects (e.g., environmental law, securities law, telecommunications law), and constitutional law.
- **International/comparative courses**: From the beginning of law school, students should learn to locate what they are learning about public and private law in the United States within the

context of a larger universe - global networks of economic regulation and private ordering, public systems created through multilateral relations among states, and different and widely varying legal cultures and systems. Accordingly, the Law School will develop three foundation courses, each of which represents a door into the global sphere that students will use as context for U.S. law. A course on public international law will introduce students to the sources, institutions and procedures emerging over time through the bilateral and multilateral arrangements among states as well as the participation of nongovernmental actors. A course on international economic law will introduce students to the network of economic regulation and private ordering affecting commercial transactions, trade, banking and other systems for facilitating and regulating economic relations around the globe. A third course, on comparative law, will introduce students to one or more legal systems outside our own, to the borrowing and transmission of legal ideas across borders and to a variety of approaches to substantive and procedural law that are rooted in distinct cultures and traditions. Students will be allowed to elect any one of these courses in the first year.

- **"Problems and Theories"**: Coming after the close of the first term, the new course on problems and theories will allow students to reflect on what they have learned through systematic treatment of methods of statutory and case analysis, discussion of different theories of law and work on a complex problem (or problems) beyond the bounds of any single doctrinal subject, explored through simulation and team work. The course's focus will be on complex problem solving. The basic materials used will be case studies of complicated situations involving facts and diverse bodies of law and demanding both creativity and analytic rigor in generating and assessing solutions.

Room for the new first-year courses will be created by devoting fewer class hours to the traditional first-year curriculum (contracts, torts, civil procedure, criminal law, and property) and by revising the school's calendar to create a new January term for first-year students, devoted exclusively to the Problems and Theories class.

Page last updated: Sun, Oct 15, 2006, 22:12:49 EDT. [HLS Contact Information](#)

[www.law.harvard.edu/news/2006/10/06\\_curriculum.php](http://www.law.harvard.edu/news/2006/10/06_curriculum.php)

**APPENDIX 10**

**TASK FORCE PROCESS AND TIMELINE**

<b>Nov. 2007</b>	<b>End of Jan. 2008</b>	<b>Feb. 2008</b>	<b>Feb. - June 30, 2008</b>	<b>July – Sept. 2008</b>	<b>Sept. 2008</b>	<b>Sept. – Nov. 2008</b>
Provision of Draft discussion paper to, <ul style="list-style-type: none"> <li>• Federation Council</li> <li>• Federation participants in Regina (law societies)</li> <li>• Council of Canadian Law Deans</li> <li>• National Committee on Accreditation</li> <li>• Law Society of Upper Canada Task Force on Licensing and Accreditation</li> <li>• Canadian Bar Association</li> <li>• Association of Canadian Legal Education Directors</li> </ul>	Completion of proposed draft Report taking into account feedback received on draft discussion paper and including consideration of issues set out in paragraph 38 of draft discussion paper.	Request to Federation Council to consult on draft Report with, <ul style="list-style-type: none"> <li>• Law societies</li> <li>• Council of Canadian Law Deans</li> <li>• National Committee on Accreditation</li> <li>• Law Society of Upper Canada Task Force on Licensing and Accreditation</li> <li>• Canadian Bar Association</li> <li>• Association of Canadian Legal Education Directors</li> </ul> It is assumed law societies will conduct additional local consultations.	Consultation period	Preparation of Final Report	Final report submitted to Federation Council at Nova Scotia meeting.	If report approved sent to provincial and territorial law societies for consideration an approval.