



Task Force on the Continuum of Legal Education **April 25, 2002**

Interim Report to Convocation

Purpose of Report: Policy - Information
Interim Decision

Task Force Members

Edward Ducharme, Chair

George Hunter
Barbara Laskin
Gregory Mulligan
Niels Ortved

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EXECUTIVE SUMMARY AND REQUEST TO CONVOCATION

1. In July 2001, the Task Force on the Continuum of Legal Education received Convocation's approval to focus its initial efforts on that part of the continuum within the direct jurisdiction of the Law Society, namely, the period between law school graduation and the Call to the Bar. Our inquiry was not confined, however, to the Bar Admission Course and articling process. We understood that any thoughtful consideration of the post-law school, pre-call phase would require an understanding of what precedes and follows it. We thus took the King's advice to the White Rabbit to "begin at the beginning and go on till you come to the end: then stop." So we began by looking into the history of legal education in Ontario, and along the way we observed as well the many different approaches to licensing in other jurisdictions.

2. Although we have not yet "come to the end," we wish to present for Convocation's consideration an interim report that proposes a fundamental change in the way we currently ready candidates for their Call to the Bar. Our recommendations are based on two premises:
 - a. that the licensing process currently in place at the Law Society of Upper Canada reflects a reality that dates back to (and, in some respects, pre-dates) the model of legal education instituted forty-five years ago; and
 - b. that, since then, changes in the teaching and practice of law, as well as changes in society at large, have been so profound that it is not possible to render our system truly contemporary by continuing to tinker with it. Major reform is indicated.

3. The principal features of the reformed system we recommend are as follows:
 - a. The Law Society will no longer teach substantive law in the BAC. Instead, it will focus on its regulatory obligation to establish a licensing process that ensures candidates demonstrate pre-determined standards of competence and an understanding of professionalism, including ethics, in the practice of law.

- b. Although the Law Society will no longer teach substantive law, it will continue to prepare and provide the Reference Materials for the subjects on which the candidates will be examined. The Reference Materials have a long tradition of excellence and are useful both for the purposes of the licensing examinations and, subsequently, in practice. These invaluable materials are developed with the cooperation of the bar and address important issues relevant to the practice of law. The current nexus between the Reference Materials and the examinations will continue so that candidates for admission will know what is expected of them in the examinations.
 - c. Licensing examinations, developed for the Law Society by professional educators, will test legal knowledge and analytical capabilities.
 - d. The Law Society will continue to teach professional responsibility as part of its many-pronged approach to nurturing the ethical values upon which the honour of the profession depends.
 - e. There will be greater flexibility built into the system, with licensing examinations and the professional responsibility course offered three times a year.
 - f. The Law Society will renew its commitment to the articling process and will seek ways to foster creative innovation, reinforce the mentorship aspect of articling and encourage collaboration among small or rural law firms to provide students with the opportunity for a meaningful articling experience.
 - g. The redesigned licensing process will continue to reflect the Society's firm commitment to the goal of improved access to, as well as equity and diversity within, the legal profession.
4. These are the essential elements of the proposed reform. The sections that follow elaborate on the rationale for each and offer an initial outline of how the new system will work. We have consulted in a preliminary fashion with the Law School Deans who support the direction and have expressed their willingness to assist as required in its development.

Request to Convocation

5. In Part VI of the report we ask that Convocation:
 - a. approve the Task Force's continued development of the direction set out in this report; and
 - b. permit the Task Force to seek input from lawyers, legal organizations, law schools, BAC section heads and faculty and students on the direction set out in the report.
6. If Convocation approves this continued work by the Task Force, the Task Force proposes to return with its final report in September 2002.

INTRODUCTION

7. Forty-five years ago, in the winter of 1957, the benchers of the Law Society of Upper Canada approved an historic arrangement with the universities, the effect of which was to inaugurate a boldly new and different system of legal education in Ontario. Much of that system, once so fresh, remains with us still. A key feature of the agreement was that each participating university would provide a three-year Bachelor of Laws program containing twenty-three compulsory subjects.

8. By 1969, the number of law schools in Ontario had grown to its present total, six. In the same year, a Committee of Law Deans renegotiated with the Law Society the list of subjects enumerated as compulsory and reduced it from twenty-three to seven. The remaining subjects, augmented by conflict of laws and labour, were to be made available to the students within the three-year LL.B. program but students were no longer compelled to study them.

9. The seven compulsory subjects were these:
 - a. Civil Procedure;
 - b. Constitutional Law of Canada;
 - c. Contracts;
 - d. Criminal Law and Procedure;
 - e. Personal Property;
 - f. Real Property; and
 - g. Torts.

10. In 2002, the universities continue to provide three-year law degree programs, the students seeking entry to them must still complete a minimum two years of university undergraduate education, and the same seven courses remain compulsory.

11. Although much of the old system endures, much has changed, too. Over time, the law schools have provided more and more courses, usually as options, within which the emphasis is upon advocacy and the acquisition of practical skills, rather than upon substantive legal knowledge alone. The law schools have long maintained, of course, that their primary purpose is not to be a technical training school, but to educate students in the law and to demonstrate law's immutable connections to the basic problems confronting society. Still, as the information set out in **Appendix 1** (skills taught in law schools) discloses, the law schools now provide numerous opportunities for students to learn the skills essential to the tasks performed by lawyers, skills such as interviewing, negotiating, legal research and writing, and trial advocacy.

12. It is trite to say, in 2002, that the profession is different, larger, and more diverse than it was in 1957. In all that time, however, the BAC has changed little in its essential character despite many reviews and reforms. For example, in June 1988, a sub-committee of the Legal Education Committee, chaired by James M. Spence, Q.C.,¹ delivered a report to Convocation entitled, "The Teaching Term of the Bar Admission Course: A Critical Assessment and Proposals for Change". One of the proposals for change was to shift the focus from the teaching of substantive concepts in the core areas of law to the teaching of skills and transactional learning. The BAC was later revised to provide for more skills-

¹now the Honourable Mr. Justice Spence of the Superior Court of Justice.

based instruction, but the teaching of substantive law continued much as in the past. Convocation later authorized several additional reviews, all of which are briefly summarized in **Appendix 2** to this report.

13. Convocation set us to our task nearly a year ago. During that time, we have studied and reflected upon the many modifications to the BAC in recent years, and the reasons for them. During that time, too, we have come to see that other forces are emerging, the long-term implications of which may well be life-altering for many in the profession, including those about to enter it.
14. These new developments are many and varied. Computer and information technology have already transformed the way many lawyers practice. They have had and will continue to have an equal effect on how students study and learn. Indeed, technology-enhanced learning has progressed with such spectacular speed that medical students, for example, can now simulate surgical procedures interactively in courses delivered wholly on-line. At Queen's University a highly acclaimed M.B.A. program uses video-conferencing combined with residential classes and customized Intranet programs.
15. In our own profession, building upon initiatives undertaken first in the Inter-Jurisdictional Practice Protocol and then by the western provinces, a National Task Force on Mobility is poised to recommend seamless, full, and permanent mobility for all lawyers in the common law provinces, and perhaps also in Quebec. If this happens, and in the Task Force's view such change is inevitable, there will also be pressure to remove all remaining unnecessary barriers to a lawyer's Call to the Bar, irrespective of the province in which the individual achieved the law degree. Underlying the drive to increased mobility of lawyers is the developing consensus across Canada that it is in the public interest to remove all artificial or unnecessary barriers to practice and to affirm, as

a matter of trust and faith, that each province's regulatory process is as good as any other.

16. In October, 1999, as part of the Law Society's Hockley Valley Retreat, Madam Justice Rosalie Abella of the Court of Appeal for Ontario shared with benchers her perspective on the state of the profession. She said that, in her view, there exists today "a professional environment where the consensus about what it means to be a professional has broken down... ." She also asked whether or not the present BAC was the most reasonable and efficacious way to gauge the competency of a newly educated lawyer. She noted:

In his masterful 1991 diagnostic study on how we teach lawyers to be professionals, Professor Brent Cotter reactivated the haunting and persistent refrain sung by decades of young lawyers -- why do we have articling and bar admission courses? Whose interests does this pedagogical gauntlet really serve? It has for too long survived the establishment of the university law schools whose absence was the original rationale for its existence. Is there really an evidentiary foundation for concluding that this is the most reasonable way for the Law Society to ensure that people entering the profession have the requisite educational arsenal of knowledge and skill?²

17. The Task Force posed these same questions, and in this interim report has outlined the framework of an answer.

²From an address delivered to a bencher planning session on October 14, 1999 and reprinted in the *Ontario Lawyers Gazette*, November/December, 1999.

PART I: THE LICENSING PROCESS

18. A defining feature of self-regulation in the legal and other professions is the licensing process, the process by and through which candidates for admission to the profession demonstrate that they have met pre-determined standards of competence. The licensing function is at the core of the Law Society's mandate to regulate the profession in the public interest.

19. Lawyers are called to the bar with an unrestricted right to practise in any area of law they choose, on the basis that they:
 - a. are of good character;
 - b. have demonstrated the knowledge, skills, and attitudes necessary to provide legal services; and
 - c. understand and will apply their professional responsibility to provide services only in those areas in which they are competent.

20. The Law Society addresses post-call competence in several ways, including:
 - a. the promulgation to the profession of a definition of the competent lawyer, now encoded in the Rules of Professional Conduct (**Appendix 3**);
 - b. the creation and dissemination of professional development programs and materials to help lawyers maintain and enhance their competence and a recently introduced minimum expectation for professional development;
 - c. the maintenance of a Specialist Certification program;
 - d. the provision of Advisory Services to guide and assist lawyers with respect to the Rules of Professional Conduct and issues of practice management; and
 - e. the enforcement of remedial or disciplinary provisions for those who do not provide competent service.

21. The question of competence in a profession is best understood contextually. No one reasonably expects a law school graduate or a person who has had a few weeks' study at a bar admission course to be a specialist. The lawyer's competence ought to be presumed to increase with time and experience. And the reality is that almost immediately upon their Call to the Bar, many lawyers begin to focus their practices upon a limited number of areas of law. Few hold themselves out as competent in all or even many areas.
22. In the life journey of the practising lawyer, the Call to the Bar is a single step. The Law Society's role at this moment is to ensure that the lawyer is competent to take that step. But an entire career lies ahead, and the lawyer is obliged to be competent all along the way. The definition of the "competent lawyer" in Rule 2 of the Rules of Professional Conduct requires focus on the lawyer at various points in his or her evolution as a professional.
23. The Law Society's regulatory objective with respect to the lawyer's competence at the time of the Call to the Bar can rightly be premised on the understanding that competence is not static, and that the lawyer's competence on the day of call will change and grow from the moment the lawyer begins to practice. The assessment of competence at call is a snapshot only, to be enhanced by post-call supports and regulatory structures and by the lawyer fulfilling the obligation to continue to update his or her skills and knowledge.
24. When the Law Society calls candidates for admission to the bar it should be satisfied that the candidates:
 - a. are of good character;

- b. are educated in specified areas of substantive law and skills, as a result of law-school education;
 - c. are appropriately experienced in explicitly defined skill areas by virtue of their law school and articling experiences;
 - d. are knowledgeable, as demonstrated by examination, about the ethical rules they must follow and the standards of professionalism they are expected to uphold;
 - e. have demonstrated, by examination, requisite levels of comprehension of substantive law, as well as analytical and other professional skills;
 - f. are capable of serving the public within self-acknowledged skill limitations in accordance with the Rules of Professional Conduct;
 - g. have demonstrated, through examination, the requisite skills to manage a law office so as to properly serve the public and meet their obligations under the *Law Society Act*, By-laws and the appropriate provisions of the Rules of Professional Conduct with respect to financial and other responsibilities; and
 - h. are prepared and committed to undertake post-call education and study to maintain and enhance competence over time within their areas of practice.
25. The Law Society has traditionally assumed that it must teach knowledge and skills, then test the candidates in substantive law particularly to ensure that they possess the requisite competence levels for their Call to the Bar. Pre-call learning was once viewed as virtually the last opportunity for instilling knowledge and attitudes in a formal setting. Teaching at the bar admission level seemed to be essential to ensure that the captive audience represented by bar admission students “learned” what the profession considered essential for them to know. The Task Force believes that if this approach was once necessary, it no longer is so.
26. The framework of legal education and the profile of the legal profession and its needs have changed a great deal since the BAC was developed and implemented. Even today, the

BAC continues to reflect the Law Society's longstanding determination to inculcate students, before their Call to the Bar, with the substantive law knowledge, skills and values they will need to practice law. But this approach is restrictive in the sense that the teaching is offered to the students once only, within a period of a few months, and under the pressure of having to write and pass eight examinations.

27. We believe that a better, broader approach to legal education is one founded on the notion, so central to the Law Society's competence mandate, that lawyers are first and foremost professionals and must commit themselves to career-long professional development and learning. Our proposal, far from abandoning the importance of legal education, seeks only to shift and widen the focus from pre-call competence to ongoing post-call competence and learning.

PART II: THE CHANGING LANDSCAPE OF LEGAL EDUCATION

28. The time has come for major reform of the BAC consistent with the Law Society’s core mandate as regulator and licenser. In arriving at this perspective, we considered carefully the long history of legal education in the province (summarized in **Appendix 4**) and the many reforms of the bar admission course, especially since 1988 (Appendix 2).
29. As can be seen from Appendix 4, the Law Society’s commitment to legal education arose out of the mandate it was given at its creation, when there was no other body to pass on legal knowledge and skills to new members of the profession. But the remarkable “New Deal” of 1957 meant that the old system, an apprenticeship system focused primarily upon articles, was about to give way to the new one that placed its emphasis upon formal education in a university setting. The BAC was born of this transition. But while the university-based legal education system has grown and changed significantly over decades, the Law Society has continued to make assumptions about what law schools teach (or do not teach) and about its own capacity to bridge the perceived gap in legal education in the two concentrated teaching phases of the BAC.
30. As the Task Force considered the issues raised in Appendix 2 (BAC reforms) we made the following observations, all relevant to the BAC’s future:
- a. For the Law Society, the 1957 arrangement signalled an end to the primacy of the apprenticeship system. It gave the universities primary responsibility for the students’ formal legal education. In 1957, the arrangement was new and untested. Although the Law Society has reformed the BAC since then, particularly in 1990 in response to many of the recommendations in the Spence report, the fundamental rationale for the program has not changed.
 - b. When the BAC model was introduced, CLE was almost non-existent. A tradition of teaching substantive law grew out of a need to provide as much information as

possible at the pre-call stage, because post-call learning was not so pervasive, specialized, and accessible as it is today .

- c. By virtue of the particular evolution of formal legal education in Ontario, there exists in the profession an imperfect understanding of the legal education and training Canadian law schools provide and are capable of providing.
- d. The substantive law portion of the BAC is premised upon a pedagogical approach of dubious value: the rapid-fire offering of specific subjects and examinations within a very short time. Despite many reforms to the BAC since 1988, students are still required to “cram”. The learning skill or technique they are thus most likely to rely upon is memory more than, say, understanding and synthesis.
- e. LPIC and Law Society complaints statistics show that the problems lawyers encounter do not stem primarily from substantive law deficiencies, but from practice management and client relationships issues. The necessity to re-teach substantive law at the BAC is not proven.
- f. Law schools have greatly expanded the teaching of practical skills and have done so more thoroughly or intensively than is possible in the BAC. In many cases the skills taught in the law schools form part of the mandatory curriculum. Appendix 1 shows examples of the skills components of the curricula of the six Ontario law schools.
- g. Adult learning principles of self-motivation and willingness to learn, upon which skills training is based, may be difficult to apply in a BAC setting where the Call to the Bar rather than learning for its own sake is the primary motivator.
- h. The articling process, which candidates for Call to the Bar continue to regard as valuable, can be enriched by the Law Society being imaginatively open-minded to innovative or non-traditional approaches and by working to promote greater consistency and relevance of articles.
- i. The overall legal education process (beginning with law school and continuing through the Call to the Bar) is still longer and more expensive than necessary.

- j. The range of approaches to licensing that now exist make it unrealistic to suggest there is only one correct way to prepare candidates for the Call to the Bar and that it is necessary to “teach” at the licensing stage to ensure competence in practice.
 - k. Countless reforms to the BAC over the past dozen years, all designed to “get it right”, may point to the impossibility of doing so when the Law Society is also the licensor and regulator. Running a “school” and presiding over a licensing process may not be compatible goals.
31. These observations lead us to conclude that further tinkering with the current BAC model should stop and that a new model, one in keeping with the Law Society’s core function as licensor and regulator, should take its place.

PART III: A NEW APPROACH

32. Law schools teach; the Law Society licenses. The Law Society is not well-suited to perform a primary teaching function, nor should it continue to try, given the sophisticated and internationally-recognized quality of legal education in our Ontario (and other Canadian) law schools.
33. For the most part, other provinces do not re-engage candidates, during the bar admission process, in the learning of general principles and substantive law. Much greater reliance is placed upon their law school experience in the achievement of knowledge and skills. Nova Scotia, for example, teaches no substantive law. It gives the candidates for admission the materials upon which they will be tested and sets and administers licensing examinations based upon these materials. The American bar admission process consists entirely of licensing examinations. **Appendix 5** illustrates in summary fashion the American approach.

Post-Call Competence

34. The Task Force's views have to some extent been shaped and guided by the Law Society's new, increased commitment to supporting members in their efforts to maintain and enhance their competence, *post-call*. The Law Society is currently developing a number of initiatives that focus on the importance of lawyers' commitment to lifelong learning. The Competence Model approved by Convocation in March 2001 is a professional development model, the essential component of which is the professional's commitment to maintaining and enhancing competence throughout his or her career. Continuing legal education, practice tools and guidelines, focused practice reviews, and the

specialist certification program all rest upon the same premise: that lawyers must never stop learning and must design or tailor that learning to their specific work or practice.

35. So, as we have noted earlier, the competence of a lawyer at the moment of call is like a snapshot, an arbitrary freezing in time, almost immediately replaced by a greater level of competence as the new lawyer gains experience and takes part in post-call education and learning. Bar admission is by no means the last, or even the best, opportunity to educate the profession. The Task Force believes that the Law Society's post-call approach to enhancing member competence is a much more effective stage at which to focus its efforts, particularly because members can customize their professional development efforts to those areas most relevant to their needs.
36. In pursuit of its efforts to enhance career-long learning and to make it as affordable and accessible as possible, the Law Society has begun to provide more electronic learning and to build partnerships for enhancing delivery of CLE throughout the province.
37. Still, the Task Force believes that the Law Society has a critical role to play in pre-call education in two areas:
 - a. the acquisition and application of skills in the articling experience; and
 - b. the inculcation of professional responsibility and practice management principles.

Articling

38. Articling provides a critical opportunity for candidates for admission to the bar to observe and participate in the practical application of skills, ethics and professional values, in a relatively low-risk environment. Because the candidate is under supervision, the public interest is protected while the learning process is advanced. This is superior to

the American model in which no such apprenticeship exists, and in which many lawyers are admitted to the bar without ever having worked in a legal environment.

39. Law schools, as we have noted, have expanded their repertoire of skills courses and programs. Especially in the areas of legal writing, drafting and research, legal reasoning and analysis, problem-solving and advocacy, they provide critical education to virtually all students. This instruction provides a valuable introduction to students of the practice skills that will, in most cases, be the underpinning of the articling experience.
40. In articling there is a direct, practical and perceivable relationship between skills and their application. A well-run and supervised articling experience will effectively guide the candidate from theory to practice. Articling students build upon and begin to apply the substantive law knowledge and skills to which they are introduced in law school.
41. Despite admitted problems with the quality of some articles, articling students reveal time and again in surveys an appreciation of this feature of their pre-call experience. **Appendix 6** contains the 2001 articling student survey. The acquisition and application of skills are essential components of a legal education and, in our view, should continue to be part of students' education prior to call. Once called to the Bar, lawyers are then expected to build upon this foundation, honing and expanding their knowledge and skills over time.
42. Having noted the importance of articling, we nonetheless believe there are ways in which the process can be improved and made more flexible, to better reflect the changing legal landscape and the increasingly varied nature of legal practice, including the following:
 - a. *the pre-approval of joint articles.* Currently, although there is authority to approve a student changing articles in mid-stream, a process has not been

developed to encourage and promote such an approach in appropriate circumstances. Pre-approval of joint articles would allow for the creative matching of different experiences. Moreover, in smaller centres where firms cannot take on the full-term commitment of a student they may be able to “share” students, making it possible for more students to work outside the large urban centres. Such an approach could also enhance the viability of mentoring across the province. Lawyers who specialize, or who practise in smaller or rural firms, could be encouraged to work conjointly so that their articling students are assured sufficient resources and variety of tasks to prepare them for the general practice of law;

- b. *the increased development of co-operative law degree programs, the same as or similar to those in existence at Queen’s University.* There is a need to develop a policy governing approval of co-operative placements during law school as part of the articling requirement, but we are impressed with the value and relevance of such programs;
 - c. *the development of optional CLE programs directed at articling students.* Even now there is an annual program, Excelling at Articles, offered by the Ontario Bar Association. We think that consideration should be given to expanding programs of this kind to provide students with additional supports and a wide range of reference tools they can apply both in their articling term and after. The Law Society could play an important role in the design and creation of such programs. The excellent example of the practitioners who devote so much of their time to the current teaching component of the BAC could be followed in the recruitment of teachers/mentors to help provide this service. Such programs will be particularly helpful for students working in smaller communities or for sole practitioners, where there may not be as much opportunity for hands-on supervision by their principal;
 - d. *the provision of training for principals and mentors should they wish to avail themselves of the opportunity.* There are expectations placed on those who become principals, yet very little organized opportunity to develop the particular skills to be a successful mentor. More training in what is involved in being a mentor or a principal could enhance the articling process.
43. There are undoubtedly many other ways in which the articling experience can be made richer, for students and principals alike. The suggestions we have set out here are

illustrative only and are intended to underscore our view that the practical apprenticeship phase of the licensing process can and should evolve to meet the changing reality of legal practice and experience. By introducing greater flexibility into the articling program, we believe that a greater number of students will benefit from the practical opportunities and experiences only articling can provide in the licensing process.

Professional Responsibility

44. The commitment to ethical action and professional responsibility in the public interest is the very foundation from which the legal profession draws its authority and strength. Without the constant nurturing of these values it would not be possible to continue to affirm the principles that justify self-regulation.

45. The Law Society's Role Statement provides, in part, as follows:

The Law Society of Upper Canada exists to govern the legal profession in the public interest by, ensuring that the people of Ontario are served by lawyers who meet high standards of learning, competence, and professional conduct; and upholding the independence, integrity and honour of the legal profession....

46. The commentary to the Role Statement points out that many provisions of the *Law Society Act* arise from the Society's obligation to uphold integrity and honour, for example:

- a. the requirement that candidates for admission be of good character;
- b. the power to prepare and publish a code of professional conduct and ethics; and
- c. the duty to investigate complaints regarding conduct and competence and, where

necessary, to impose sanctions on members who fail to honour their obligations.

47. It is a core function of the Law Society to develop, approve and enforce Rules of Professional Conduct. As the profession's regulator, the Law Society's constant challenge is to ensure that its members uphold the integrity of the profession. When lawyers fail to adhere to the Rules, the Law Society is obligated to respond resolutely and decisively to protect the public.
48. The values of professionalism, ethics and integrity must begin to be taught immediately upon the student's entry into law school. Law schools have the first opportunity to engage the future lawyer in an analysis of the profession's ethical responsibilities and have long recognized the importance of their role in developing this aspect of professional values. Their involvement in the teaching of professional responsibility over the three years of law school is a critical phase in the development of ethical lawyers.
49. The issue of how best to deliver this aspect of legal education has been the subject of many internal law school discussions, internal Law Society discussions and discussions between the law schools and the Law Society, and, indeed, it was the subject of a 1991 report by W. Brent Cotter entitled *Professional Responsibility Instruction in Canada: A Coordinated Curriculum for Legal Education*. The debate centres mostly around the question of whether professional responsibility ought to be taught as a "stand-alone", obligatory course in law school or integrated into all the substantive law courses and studied within the context of particular substantive law areas.
50. The Task Force believes that little will be accomplished in continuing this debate. It matters less to us how the law schools teach the subject of professional responsibility

than that they do teach it. The teaching of professionalism and ethics should continue to be an important component within the three-year law degree program. Regardless, however, of how the law schools approach the teaching of professional responsibility, it remains essential for the Law Society to provide its own additional instruction as part of the post-law school licensing process. This is so because professionalism and ethics are the soul and centre of our profession, because every lawyer is accountable for and responsible to abide by the Rules of Professional Conduct, and because a breach of this obligation may result in the imposition of sanctions.

51. The Law Society's instruction should continue to emphasize those features of professional responsibility and practice management that are of particular concern to the Society, including:
 - a. principles of self-governance;
 - b. a lawyer's duty to the public;
 - c. civility and professionalism;
 - d. identification and application of the Rules of Professional Conduct, with particular emphasis upon conflicts, confidentiality, ethical advocacy, and avoidance of discrimination and harassment; and
 - e. service to clients, including practice management.

A New Direction

52. Having regard to the considerations discussed in this report, the Task Force has developed a proposed general framework for the Law Society's admission requirements, the main components of which are examinations and Reference Materials.

Examinations

53. For the reasons discussed above, the Law Society would no longer teach substantive law. The Law Society would teach one course in professional responsibility, ethics and practice management.
54. Candidates for admission to the bar would be required to write licensing examinations. The objective of the licensing examinations would be to assess legal knowledge and analytical capabilities.
55. The current approach of assessing separately eight substantive areas would be discontinued and replaced with the following:
 - a. a barrister's examination focusing on advocacy-related areas;
 - b. a solicitor's examination focusing on solicitor-related areas; and
 - c. a professional responsibility and practice management examination.
56. The Law Society would offer the professional responsibility and practice management course and the licensing examinations at three prescribed times during the year, so that candidates could sit for them before, during, or after articling. Licensing examinations would be developed and designed by professional educators either on staff at the Law Society or retained specifically for that purpose. The examination sitting preceding articling would be scheduled to permit a study period following completion of the three-year law degree program.

Reference Materials

57. Although the Law Society would no longer teach substantive law, it would continue to prepare and provide the Reference Materials for the subjects on which the candidates will be examined. The Reference Materials have a long tradition of excellence and are useful

not only for the purposes of the licensing examinations but also for practice. These invaluable materials are developed with the cooperation and substantial assistance of members of the bar and address important issues relevant to the practice of law.

58. Currently, in the BAC, attendance is not mandatory. A significant proportion of the students already do not attend lectures or seminars and yet are able to successfully complete the current examinations. In our view, the success of students on the examinations, despite their non-attendance at lectures, is due in part to the fact that there is a direct link between the Reference Material content and the examination content, so that candidates for admission are not faced with unknown subject matter. In addition, students are provided with sample questions and answers as guides to their study.
59. In the current BAC, the eight examinations are closely connected to the Reference Materials. The licensing examinations should continue to be based upon these materials. It is possible, of course, that if the Law Society stops teaching substantive law in the BAC, private corporations or schools similar to those in the United States may try to step in. We consider this unlikely so long as the Law Society continues to provide excellent Reference Materials and continues to test based upon those materials.
60. To further assist candidates in accessing Ontario-specific law and key statutes the Law Society would maintain an electronically accessible library. This resource could be enhanced by the inclusion of other materials addressing substantive law and skills, some of which could be authored and maintained with the assistance of organizations such as the Advocates Society and the Ontario Bar Association.
61. If the general framework described here is adopted as the Law Society's model for

licensing, the bar admission process would consist of the following components:

- a. graduation from an approved Canadian common law school, or approved equivalent;
- b. successful completion of the articling requirement;
- c. successful completion of the Law Society course on professional responsibility and practice management; and
- d. successful completion of the Law Society licensing examinations.

PART IV: EQUITY IMPLICATIONS OF THE NEW APPROACH

62. In developing its approach to the licensing process the Task Force has paid particular attention to the Law Society's commitment to a legal profession that is representative of the diverse Ontario population. As the licensing authority for the province's lawyers, the Law Society must be committed to an admission process that is both reliable as a measure of entry-level competence and free of unreasonable barriers to admission for all groups in the profession, especially those candidates for admission from groups currently under-represented in the legal profession. In other words, the Law Society must demonstrate and be seen to demonstrate commitment to a reliable, fair, open, and equitable accreditation process.
63. The extent to which an accreditation process is open and accessible depends upon a number of factors, among the most important of which are:
- a. the cost and duration of the admission process; and
 - b. the nature of the course content and examination system.

Cost and Duration of the Current Program

64. In our view, the cost and the duration of the current bar admission course can only be seen as an impediment to admission for a significant proportion of candidates, particularly those from groups under-represented in the legal profession. The costs to students of the BAC are substantial. Traditionally and currently, students who have secured jobs at large and even mid-size firms have their BAC tuition paid and are often paid a salary while taking the course.³ For these students, the length of the course and its

³Whereas in the past the BAC took place after articling and students had often been asked to return for permanent employment with their firms upon Call to the Bar, most students now take the BAC before articling.

cost are irrelevant. The opposite is true, however, for those who are employed by small firms or who have not yet secured employment. In the Law Society's experience, candidates from groups traditionally under-represented in the profession tend to make up a disproportionately high percentage of this group. Moreover, the cost burden to candidates for admission is exacerbated by the spiraling costs of undergraduate and law school tuition.

65. Although the number of locations in which the BAC is offered has increased, there are still students who must take jobs away from their homes and families, finding or maintaining accommodations away from their permanent residences. For those with family responsibilities and debt loads from law school this geographic reality adds a further burden. In addition, given that most students now take the BAC during the summer months, there are further implications for those with children who are out of school during this period.
66. The length of the process also creates lost opportunity costs that cannot be precisely calculated. For each month that a self-supporting candidate is not called to the bar and not working, the burden increases. As well, economic burdens create additional personal and family pressures that may have an impact on candidates' ability to complete the licensing requirements successfully.
67. The Law Society has recognized the economic pressures that some students face and has had a long history of bursaries and loans to assist. In 2001, Convocation created a fund of approximately \$615,000 and paid \$171,000 in grants to students. For the fiscal year 2002, Convocation approved the addition of \$100,000 to the balance remaining in the fund. While it is to the Law Society's credit that it assists as it does, the degree of need

has persuaded us of how important it is to assess whether the cost implications and duration of the course are necessary to ensure that those called to the bar demonstrate entry-level competence. It is our view that the gains afforded by the BAC are exceeded by the financial burdens the BAC imposes. Possible budget implications of the proposed model are discussed in Part V, below.

Nature of Course Content and Examination System

68. In 1997, the Law Society considered the steps it could take to address a disproportionately high failure rate among those candidates from groups traditionally under-represented in the legal profession. As a result of the analysis it introduced a whole host of support mechanisms to assist candidates in overcoming unreasonable barriers to their Call to the Bar. The Task Force considers that this is a proper and reasonable role for the regulator to have assumed and to continue to assume in the proposed system. The current infra-structure is valuable, well-developed and beneficial to those who have used it; it should continue to exist. Services under the system include the following:
- a. Tutoring;
 - b. Tutorials on examination writing;
 - c. Mentoring, where available, by lawyers recently called to the bar;
 - d. Extended time to complete examinations;
 - e. Use of special equipment such as a personal computer;
 - f. Use of private rooms;
 - g. Examinations in alternative forms such as audiotape, Braille, text to speech; and
 - h. Use of readers or scribes in the examination setting.
69. Examination development should likewise reflect the same commitment to an open and accessible process.

70. In considering the bar admission process and the efficacy of changes to it, the Task Force has borne in mind the goal of increased access to and diversity in the legal profession and has developed its recommendations in the belief that these goals are by no means peripheral. They must play an integral part in the development of the approach if the legal profession in Ontario is to be representative of the citizenry who rely upon the profession's services.

PART V: BUDGET IMPLICATIONS

71. The Task Force has not yet completed a detailed analysis of what the proposed new approach would be likely to cost. Until such time as Convocation approves a direction, it is difficult to develop a meaningful analysis of new costs.
72. Nevertheless, at our request, staff in the Education and Finance Departments have done some preliminary analysis of the probable budget implications of a model similar to that described in this report. This work covers four topics:
- a. Operational savings;
 - b. Changes in the attribution of indirect costs;
 - c. Possible savings in lease costs arising from the reduced need for space; and
 - d. Possible revenue implications of the program changes.

Operational savings

73. Staff of the Education Department have made a preliminary estimate of how much it would cost to run the model envisaged in this report; a summary is provided at **Appendix 7**. It does not assume any initial reduction in the cost of examinations. This is because while there would be three licensing examinations rather than eight, those three would be offered three times yearly. The Student Success Centre is also assumed to remain at the current level. The total implications of these operational changes are a budget reduction of approximately \$1.32 million, or about 24% of the current operations cost. This does not reflect additional savings or revenue implications discussed below.

Indirect Costs

74. All Law Society programs also bear a proportion of Law Society ‘overhead’ costs. This

covers items such as bench expenses, human resources (allocated in proportion to the number of staff), finance and communications (allocated in proportion to budgeted expenses), facilities (allocated in proportion to the square footage of the department), and other smaller items such as insurance.

75. In the short term, the reallocation of these costs from a particular program will result in those costs being allocated to other existing programs. Over time, there could be reduction in actual indirect costs. However, costs could increase in some other areas. For example, the electronic delivery of materials and creation of a virtual library may result in cost increases to areas such as information systems.

Leasehold Savings

76. A detailed space analysis has not been conducted. However, it is possible that the reduction in space required for teaching purposes would remove the need for leasehold space at 393 University Avenue and 1 Dundas Street West. This could represent a saving of up to \$270,000 per year if the University Avenue premises can be subleased (the lease runs to April 2005).

Ottawa Savings

77. Under the new model, the Ottawa building owned by the Law Society would probably no longer be required, resulting in investment income of about \$67,000 per year from the proceeds of sale. In addition, building operating expenses of \$195,000 would be saved. Limited office and class space would have to be rented at an estimated cost of \$100,000 resulting in a net operating benefit of about \$162,000.

Revenue Implications

78. At present, the BAC is funded by the tuition fees of \$4,400 per student, a contribution from the membership of approximately \$49 per full-fee paying member, and a grant from the Law Foundation of Ontario of about \$1.3 million. No predictions of possible student or member fee changes have been undertaken.
79. The year 2001 saw the financial impact of what is known as the “double cohort”. Because the revenues of a BAC cohort precede the expenses, significant changes in the BAC model may initiate an impact analogous to a “half cohort” where costs are incurred at the back end of a particular BAC model without sufficient revenues coming in from the new model.
80. The Law Foundation has already notified the Law Society that existing funding may decrease by as much as \$300,000 per year as a result of diminishing investment returns. A change in the BAC model may mean that the grant from the Law Foundation would be reviewed in its entirety. Any change in Law Foundation funding would require a policy decision from Convocation as to whether members or students should make up the shortfall.
81. It is also possible that Law Foundation funding might be available for some of the technological advances proposed in the provision of materials. The Law Society has substantially completed Phase 1 of the three-phase Technology Enhanced Learning project which has the objective of improving computer and video-assisted learning. The Law Foundation provided \$1.3 million funding for Phase 1. The future direction of this project is uncertain.

Conclusion

82. The net financial impact of contemplated changes to the BAC depends on whether cost savings are passed onto students or members. In the past, Convocation adopted a policy that students should pay the full cost of the “non-discretionary” parts of the BAC, which would mean most savings would be passed on to the students. In contrast, “discretionary” parts of the BAC such as the French program, the Student Success Centre and tutoring have been seen as part of the Law Society’s equity initiative and thus not funded by the students. These areas may see an increase in activity under the proposed model.

PART VI: REQUEST TO CONVOCATION

83. This interim report provides Convocation with a framework for a new direction in the Law Society's approach to the licensing process. In the Task Force's view, it focuses on the features with which the Law Society should concern itself and leaves other essential components of the legal education process where they more appropriately belong. It tells candidates, the law schools and the profession where each level of responsibility lies and it does so without blurring lines.
84. Convocation is requested to:
- a. approve the Task Force's continued development of the direction set out in this report; and
 - b. permit the Task Force to seek input from lawyers, legal organizations, law schools, BAC section heads and instructors, and students on the direction set out in the report.
85. If Convocation approves this continued work by the Task Force, the Task Force proposes to return with its final report in September 2002.

APPENDIX 1: EXAMPLES OF PRACTICAL LEGAL SKILLS TAUGHT AT ONTARIO LAW SCHOOLS, IN RELATION TO CURRENT BAC COURSES (*information provided by law schools; **information taken from law school calendar)

BAC Skills	Western*	Osgoode*	Toronto**	Ottawa*	Queens*	Windsor*
Interviewing	<p>opportunities for clinical work through student legal clinics & through Pro Bono Students Canada</p> <p>-----</p> <p>clinic for credit</p> <p>Family Law Practice & Procedure</p> <p>client interviews</p> <p>Upper Year Clinical Legal Education Course</p> <p>Client Counseling volunteer programs offered (many students take advantage)</p>	<p>opportunities for clinical work through student legal clinics & through Pro Bono Students Canada</p> <p>-----</p> <p>clinic for credit : (Community Legal Aid Services Programme) CLASP</p> <p>Intensive Programme: whole semester at Parkdale Community Legal Services</p> <p>Criminal Law Innocence Project-client contact</p>	<p>opportunities for clinical work through student legal clinics and through Pro Bono Students Canada</p> <p>-----</p> <p>clinic for credit available</p>	<p>opportunities for clinical work through student legal clinics & through Pro Bono Students Canada</p> <p>-----</p> <p>clinic for credit available</p> <p>interviewing counseling and negotiation course</p>	<p>opportunities for clinical work through student legal clinics & through Pro Bono Students Canada</p> <p>-----</p> <p>Queen's Legal Aid - clinic for credit, also Clinical Correctional Law (with prisoners)</p> <p>Upper Years: Practice Skills Requirement Course</p> <p>client interaction</p> <p>clinical legal experience</p> <p>Ethics & PR. Requirement Course: Client Counseling & Dispute Resolution</p>	<p>opportunities for clinical work through student legal clinic ('LAW' and 'CLA') & through Pro Bono Students Canada</p> <p>-----</p> <p>clinic for credit, including full-semester option</p> <p>Clinical Advocacy/Clinical Law: teaches lawyering skills with supervised contact with practical legal problems in a legal clinic environment</p> <p>Upper Year Courses: Lawyering Process Interviewing Counseling & Negotiation: uses practical exercises within theoretical & critical perspectives</p>
Agreement Drafting		2 legal drafting courses	legal drafting (25 students maximum)		Upper Year: Practice Skills Requirement: develop drafting skills	

Opinion Letter						
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BAC Course	Western	Osgoode	Toronto	Ottawa	Queens	Windsor
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<p>Negotiation</p>	<p>Arbitration Law & Procedure involves participation in mock arbitrations and other exercises</p> <p>Dispute Settlement examines alternative dispute resolution techniques</p> <p>Dispute Resolution Centre - serves local community</p> <p>Upper Year Clinical Legal Education Course</p> <p>Negotiation & Mediation simulated exercises used</p>	<p>Upper Year Civil Procedure - weekly two hour workshop, conduct a negotiation in attempt to settle the simulated litigation file.</p> <p>Upper Year Perspective Option - Dispute Settlement, introduction to ADR, esp. negotiation, mediation and arbitration.</p> <p>Lawyer as Negotiator “Theory and Practice of Mediation” attend on 5 occasions in Small Claims Court, spend the morning conducting mediation referred to the co-mediators on the date of trial. Students take an intensive week-end introductory seminar on mediation skills and are coached by experienced mediators when attending court.</p> <p>Clinical Education CLASP Criminal Law Mediation Project provides training to students</p>	<p>2 optional Negotiation courses (57 students)</p> <p>-optional intensive negotiation courses</p> <p>-optional ADR course</p> <p>-optional advanced ADR course (25 students)</p> <p>-'Art of the Deal' course (17 students)</p> <p>-Family Mediation (20 students)</p> <p>-Labour Arbitration (mock hearing (25students)</p> <p>-Theory of Negotiation Course</p>	<p>1st year Skills Instruction dedicated classes to legal writing, theory, terminology, resources and research & oral advocacy incl:</p> <p>-participation in negotiation exercises (involving settlement of personal injury claim)</p> <p>Interviewing, counseling and negotiation course</p> <p>Introduction to Alternative ADR</p> <p>Mediation Theory and Practice</p>	<p>Upper Year: Practice Skills Requirement</p> <p>ADR Course: negotiation and mediation</p> <p>clinical legal experience incl.</p> <p>Non-Adversarial Dispute Resolution</p> <p>Ethics & P.R. Requirement Course: Client Counseling & Dispute Resolution</p>	<p>Upper Years Optional</p> <p>Lawyering Process Interviewing Counseling & Negotiation</p> <p>uses practical exercises within the context of theoretical & critical perspectives</p> <p>Clinical Advocacy/Clinical Law teaches lawyering skills with supervised contact with practical legal problems in a law clinic environment</p> <p>Mediation Service provides opportunity to learn mediation skills in a classroom and clinical setting, provides service to local community</p> <p>Osler’s Internship in Conflict Resolution: those eligible for this internship program are placed with the University’s Mediation Service for a private/public sector organization or community group.</p>
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BAC Course	Western	Osgoode	Toronto	Ottawa	Queens	Windsor
Legal Research & Statutory Analysis	<p>Legal Research, Writing & Advocacy</p> <p>1st year mandatory taught in small group settings and lectures: how to plan and conduct library and computer-assisted legal research, analyze cases and statutes.</p> <p>major paper required in at least one course</p> <p>Upper years optional advanced legal research</p> <p>Labour Arbitration Competition - provides research experience</p> <p>Upper Year Clinical Legal Education Course</p>	<p>1st year Mandatory Legal Research & Writing</p> <p>introduction to research skills, approaches to legal analysis and standards of communicating orally and in writing</p> <p>CLASP - Intensive Programme Criminal Law</p> <p>engage in legal research & writing at discretion of principal</p> <p>Mooting Program</p> <p>research an area of law</p> <p>Upper Year Intensive Legal Research and Writing Course</p>	<p>1st year Mandatory legal writing and research techniques provided in small group settings</p> <p>Upper year mandatory major research paper</p> <p>Optional advanced legal research and analysis</p> <p>Optional Directed Research program</p>	<p>1st year classes in Skills Instruction dedicated to legal writing, theory, terminology, resources and research & oral advocacy</p> <p>Upper Year Training mandatory training in advocacy skills & other practice skills, a major paper requirement to showcase research & writing skills</p> <p>optional courses: Legislation Legislative Process Statutory Interpretation Legal writing/ Rédaction juridique Recherche juridique</p>	<p>Upper Year: Practice Skills Requirement</p> <p>Advanced Legal Research Course</p> <p>1st & Upper Year students must write a major paper</p>	<p>First Year Mandatory Course: Legal Writing & Research</p> <p>Upper Years - Optional Advanced Legal Research provides the opportunity to develop advanced knowledge of a broad range of available legal research materials, their use and application</p> <p>Clinical Advocacy/Clinical Law teaches lawyering skills with supervised contact with practical legal problems in a law clinic environment</p>
Affidavit Drafting Moving & Responding Parties	Upper Year Clinical Legal Education Course	Clinical Education		optional - Legal Drafting placement Federal Tribunals Placement		

Examination for Discovery		Upper Year Civil Procedure - weekly two hour workshop, prepare for examination for discovery			Civil Advocacy Course	
Motion Argument/ Examination- Chief and Cross- Examination at Trial	<p>Family Law: marshalling evidence, preparing court documents, presenting case orally</p> <p>Appellate Advocacy Competition take part in one of several external appellate advocacy competitions</p> <p>Labour Arbitration Competition - provides advocacy experience in mock arbitrations</p> <p>Upper Year Clinical Legal Education Course Litigation Practice introduction to advocacy Community Clinic, Trial Advocacy and moot program, voluntary</p>	<p>Clinical Education CLASP Immigration & Refugee Law two-week placements dealing with advocacy, adjudicative and governmental settings</p> <p>Criminal Law prosecuting and defending in simulated exercises, students placed with courts during 9 week period</p> <p>Mooting Program argue appeal, hands-on experience with oral and written advocacy.</p> <p>Summer Public Interest Advocacy Program</p>	<p>Compulsory 2nd year moot.</p> <p>Optional advanced civil procedure.</p> <p>Optional competitive moot.</p> <p>Trial Advocacy (maximum 50 students).</p>	<p>1st year Skills Instruction dedicated classes to legal writing, theory, terminology, resources and research & oral advocacy incl:</p> <p>participation in in-class moots</p> <p>Upper Year must satisfy moot court requirement, taking full responsibility as counsel in preparation & argument of moot case.</p> <p>Oral advocacy course compulsory incl. course on trial advocacy</p>	<p>Upper Year Practice Skills Requirement:</p> <p>Clinical Legal Experience (Litigation, Correctional and Family Law)</p> <p>Advocacy Competitive Moots</p>	<p>Civil Advocacy develops basic trial advocacy skills by: demonstrations by experienced counsel, students' performance and critique</p> <p>Criminal Advocacy practical exercises encompassing the criminal trial process</p> <p>Clinical Advocacy/Clinical Law teaches lawyering skills with supervised contact with practical legal problems in a law clinic environment</p> <p>Extensive series of competitive moots incl. mock trial competition and labour arbitration moot.</p>

BAC Course	Western	Osgoode	Toronto	Ottawa	Queens	Windsor
Legal Research & Case Analysis	<p>Legal Research, Writing & Advocacy</p> <p>1st year mandatory taught in small group settings and lectures: how to plan and conduct library and computer-assisted legal research, analyze cases and statutes.</p> <p>Upper Year Clinical Legal Education Course</p>	<p><i>Osgoode Hall Law Journal</i> - editorial work for credit</p>	<p><i>Law Review</i> for credit</p>	<p><i>Law Review</i> Editorship for credit</p>	<p><i>Queen's Law Journal</i> - editorial positions for credit</p>	<p>First Year Mandatory Legal Writing & Research Course</p> <p>Clerkship Program students serve as clerks of the Supreme Court of NW Territories</p>
File Organization and Management	<p>Legal Aid Clinics, Pro Bono Students</p> <p>-----</p> <p>Labour Arbitration Competition - provides preparation experience</p>	<p>CLASP Clinic, Pro Bono Students</p> <p>-----</p> <p>Upper Year Civil Procedure - weekly two hour workshop, develop case file, draft pleadings</p> <p>Criminal Law Innocence Project - clinical work of suspected wrongful conviction screening new files, case analysis, case development</p>	<p>Legal Aid Clinic, Pro Bono Students</p> <p>-----</p>	<p>Legal Aid Clinic, Pro Bono Students</p> <p>-----</p> <p>Advanced Clinical Course in Community Law</p> <p>Placements available in Crown Attorneys' Office</p>	<p>Legal Aid Clinic, Pro Bono Students</p> <p>-----</p>	<p>Legal Aid Clinic, Pro Bono Students</p> <p>-----</p>

BAC Course	Western	Osgoode	Toronto	Ottawa	Queens	Windsor
Ethical Advising	<p>Legal Profession detailed consideration of the Canons of Ethics</p> <p>-----</p> <p>Ethical issues also considered in many substantive courses</p>	<p>CLASP Small Business Clinic providing advice and assistance to referred individuals</p> <p>-----</p> <p>Ethical issues also considered in many substantive courses</p>	<p>Legal Ethics (optional)</p> <p>-----</p> <p>Ethical issues also considered in many substantive courses</p>	<p>1st year Coordinated Instruction for Diversity, Perspectives, Ethics & P.R</p> <p>requirement to work on ethics problems similar to those raised in BAC</p> <p>Upper Year mandatory - major paper requirement to showcase ethics and P.R.</p> <p>-----</p> <p>Ethical issues also considered in many substantive courses</p>	<p>Upper Year Ethics & P.R Requirement: must complete an upper year course (in addition to Civil Procedure) in which legal ethics is certified as constituting a significant element of the course</p> <p>Legal Ethics Seminar</p> <p>-----</p> <p>Ethical issues also considered in many substantive courses</p>	<p>-----</p> <p>Ethical issues also considered in many substantive courses</p>
Accounting						

APPENDIX 2: REFORMS TO THE BAC SINCE 1988 (Summary Table Follows)

1. From its inception, the Law Society has concentrated much of its energy and resources on legal education. To some degree, that focus shifted to the law schools after 1957, but wrestling with the difficult issue of how best to prepare lawyers for practice has been no less a significant component of the Law Society's attention since that date.
2. Both the former Legal Education Committee and the current Admissions Committee have expended enormous time and energy, over decades:
 - a. reviewing the goals of the BAC;
 - b. proposing reforms;
 - c. implementing reforms;
 - d. reconsidering earlier decisions;
 - e. determining appropriate methods of evaluation;
 - f. determining appropriate pass rates and evaluating implications of failure rates;
 - g. evaluating the efficacy of articling;
 - h. considering cost issues;
 - i. considering equity issues;
 - j. implementing different modes of delivery for the program; and
 - k. assessing appropriate course content.
3. The **Chart** at the end of this Appendix illustrates the major shifts and "reforms" that have occurred to the teaching term of the program since the early 1980s.
4. In the period between its inception in 1957 and the late 1980s when the Spence Subcommittee proposed major change the BAC remained essentially unchanged.
5. In **1988** when the Bar Ad Reform Subcommittee reviewed the BAC, the teaching term was approximately four months, following twelve months of articles. This was a reduction from the six month course that ran earlier in the decade. A summary of the content of the BAC in 1987-88 is attached at the end of this Appendix.
6. It is worth setting out the concerns about the program that were highlighted in the Executive Summary of the Spence report:
 1. *The design of the Course does not reflect an agreed upon definition of what equips beginning lawyers to practise law competently, nor does it build upon a clear understanding of the knowledge and abilities students have acquired prior to entry into the Course.*

2. *There is insufficient emphasis upon the lawyering and other skills needed for the competent practice of law.*
3. *The overall length of the Course has a detrimental effect upon the educational environment.*
4. *The knowledge students require is still taught in the teaching term through methods that are not always effective and consume too much of the available time for instruction.*
5. *Students are not well prepared for the articling experience.*
6. *Insufficient attention has been given to how the Continuing Legal Education Program can assist new lawyers to acquire the knowledge needed for practice.*
7. The Spence model was predicated on the view that the Bar Admission Course's emphasis on teaching substantive law was unnecessary and should be substantially reduced, giving way instead to skills training, the teaching of professional responsibility and practice management, and transactional learning. Efforts to reduce the substantive components of the course were not entirely successful. For this and other reasons Convocation authorized another review of the BAC in **December 1993** that considered issues and presented a report in April 1995, which Convocation approved for consultation.
8. The report affirmed the importance of the teaching of professional responsibility and practice management, and skills and transactions, but reiterated that although the students must pass licensing examinations to demonstrate entry-level competence the Course should not focus on teaching substantive law. To some degree it anticipated passage of a mandatory continuing education program and included proposals for post-call learning for the newly-called lawyer in such a regime. The 1995 proposals were not adopted.
9. Another review of the BAC followed, this time to address the issues raised in the 1993 review and 1995 report as well as additional issues arising from concern with equity issues, the impact that a new definition of competence should have on the course, and funding. This review resulted in a discussion document for consultation in **February 1998**. It proposed a skills teaching program followed articling, followed by a licensing examination self-study period and examinations. In **December 1998**, a further consultation document was prepared with three options for discussion:

the status quo;
the 12-week summer school model (from the February 1998 discussion paper);
a skills-focused model.

10. In **February and March 1999**, Convocation considered and approved further proposals for change to the BAC, flowing from the consultations on the December 1998 report. The model approved is the basis of the current program, which was implemented for the spring 2001 BAC class. The first substantive law session, for those who elected to split the teaching portion, will run in the summer of 2002. The current program integrates skills with transactional learning, but continues to have the attendant weaknesses of a “cram” course identified in the program since the 1990s with respect to the substantive law portions.
11. In addition to the detailed “reform” proposals that Convocation has considered since 1990, there have been numerous changes to specific policies within the BAC to address areas of concern, or complaint or to ameliorate policies that have been determined not to advance the goals intended.
12. So, for example, bar admission examinations have undergone many changes since the 1980s in terms of format and passing grade. The passing standard has included:
 - a. a percentage grade;
 - b. pass/fail/honours;
 - c. percentage pass of 60%;
 - d. norm-referencing;
 - e. a separate marking scheme for French language examinations to address problems engendered by applying norm-referencing to such a small group;
 - f. a capped norm-referencing pass standard;
 - g. aegrotat standing; and
 - h. “borderline group methodology” and Angoff methodology.
13. The format of the examinations has been relatively stable since 1996, but underwent changes before that time from open-book, to closed-book to essay questions, to drafting questions, to short-answer and multiple choice.
14. Similarly, the appeal process within the BAC has varied as follows:

1993-95	written appeal based on review of failed paper and marking guide;
1995	no appeal, but re-grade based on reviewing examination without notes, in

supervised room;

1996 a re-grade possible if exam received a grade within 10 marks of the pass; there was no further appeal;

1998 students permitted to review failed exams and marking guide. Students could request re-grade if received grade equal to or greater than 80% of the pass. In fact all failed exams were routinely re-graded;

1999 re-introduction of right to appeal.

15. In addition there have been numerous changes made over a number of years to policies related to the following:
- a. accommodation of special needs;
 - b. mandatory versus voluntary attendance;
 - c. location of teaching centres; and
 - d. course delivery.

These reviews have been engendered by changing educational approaches. They have also reflected the growing expectation that the licensing process should not be “one-size-fits-all”, but should address differing learning needs and requirements.

CHART SUMMARIZING BAC CHANGES

Years	Program/Proposal	Concerns raised and reforms proposed	Examination Issues
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<p>1980s</p>	<p><u>Program in place</u> 6 months (September-February; Call to the Bar in April)</p> <p>subsequently reduced by a few months</p> <p>“Multiple Options” section introduced to broaden areas addressed and introduce skills. No assessment.</p>	<p>Lengthy course, “cram” school nature, uneven teaching quality; uneven examinations</p> <p>Uneven quality in Multiple Options courses</p>	<p>mainly essay; issue identification and analysis;</p> <p>approximately 10 examinations; open or closed book at the choice of the section head; pass based on percentage grade; later Pass/Fail</p>
<p>1990</p>	<p><u>New program introduced</u> Spence model 4 week “skills” program followed by 12 months articling followed by 4 months substantive law courses and examinations</p> <p>Mandatory attendance</p>	<p>Spence report envisioned significant increase in skills training and substantial decrease in teaching of substantive law - not fully realized; use of transactions to teach not fully realized</p> <p>Recommendation for challenge exams in one or two areas before course - not implemented</p> <p>“cram” issues still a factor in substantive portion of program</p> <p>mandatory attendance a substantial irritant</p>	<p>7 skills assessments; 8 substantive law examinations</p> <p>Pass: 60%</p>

<p>1993 - 1995</p>	<p>April 1995 Report distributed for consultation with the profession</p>	<p>Review authorized by Convocation (December 1993) to consider issues arising out of first years of implementation of the Spence report implementation;</p> <p>April 1995 report approved by Convocation for consultation:</p> <ul style="list-style-type: none"> - proposed 8 week teaching term: - 1 week professional responsibility - 1 week practice management and loss prevention - 2 week practice skills - 2 week solicitor transaction to learn “how-to” of solicitor practice - 2 week barrister transaction to learn “how-to” of barrister practice <p>mandatory two-year mentoring</p> <p>Not Implemented</p>	<p>Licensing examinations would be scheduled twice yearly during and after articling</p>
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<p>1995 - Feb. 1998</p>	<p>Further report approved for consultation with profession to re-consider 1995 report and address equity issues and funding issues</p>	<p>The review proposed,</p> <ul style="list-style-type: none"> S a three month teaching term to address transactional learning and skills; S a self-contained examination period with self-study, and videos and internet chat rooms to facilitate self-study; S tutorials for those who needed them; <p>These components could be taken on either end of articling. Students could obtain credit for skills course taken in law-school and avoid re-taking them in the BAC.</p> <p>Mandatory mentoring determined to be impractical, but voluntary program recommended.</p> <p>Not approved</p>	<p>licensing examinations over two days (comprehensive exams).</p>
<p>1996-1999</p>	<p>Review of examination system</p>	<p>Serious concern about lack of rigour and consistency in examination system and marking process. Convocation approved introduction of norm referencing and creation of confidential bank of examination questions. Expert in educational measurement and testing retained.</p> <p>Norm-referencing marking system introduced; varied with respect to French-language exams; then pass standards capped. Norm referencing abandoned</p> <p>new system introduced, with <i>aegrotat</i> standing</p>	<p>Pass varied from examination to examination determined by comparing candidates' scores with scores attained by all other candidates</p> <p>form of examinations multiple-choice and short answer focused on statutory analysis</p> <p>in 1996 30% of entire class wrote 1 or more supplementals</p>

1997	Task Force on Examination Performance	<p>Inquired into disproportionate failure rate of aboriginal and visible minority students and students in the French language BAC.</p> <p>Some recommendations from this report were implemented as part of BAC reform including (a) creation of Student Success Centre; (b) tutoring; (c) longer writing time per examination; (d) changed appeal process; (e) changing marking method.</p>	
Dec. 1998	Further consultation report for BAC reform	<p>Three models presented for discussion</p> <ul style="list-style-type: none"> a. The status quo b. The 12-week Summer school model (from the February 1998 discussion paper) c. Skills Focused model <p>Model (c) proposed a focus on skills identified in the definition of competence; was premised on reasonable access through multiple locations and computer-supported self-study; more flexible learning environment to support equity goals.</p> <p>Not approved</p>	<p>Substantive law would be tested with computerized self-study modules, with computer-administered examinations.</p> <p>Students could take examinations at any point in the BAC period.</p>

<p>1999-2001</p>	<p>BAC Reform Report presented to Convocation</p>	<p>Teaching of substantive law to continue Better integration of skills into transactional approach</p> <p>Current Program 8 week skills program before articling (one barrister-focused course; one solicitor-focused course) 12 week substantive law program either before or after articling recommendation for computer-assisted learning if funds permit</p> <p>3rd scheduling option approved to combine skills phase with articling (done weekends or evenings) - Not implemented.</p> <p>No mandatory attendance</p> <p>In substantive law component - goal to teach analysis of legal problems faced by clients, determination of appropriate courses of action and completion of transactions rather than teach black-letter substantive law.</p>	<p>No substantial change to number or type of exams.</p> <p>During skills phase 3 substantive law examinations and a number of skills assessments</p> <p>Balance of examinations (5) done in substantive law phase</p> <p>accounting exam</p>
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<p>1993-1999</p>	<p>Appeals Issue</p>	<p>1993-95 written appeal based on review of failed paper and marking guide</p> <p>1995 no appeal, but re-grade based on reviewing examination without notes, in supervised room</p> <p>1996 students could request a re-grade if exam received a grade within 10 marks of the pass; there was no further appeal</p> <p>1998 students permitted to review failed exams and marking guide. Students could request re-grade if received grade equal to or greater than 80% of pass. In fact all failed exams were routinely re-graded.</p> <p>1999 Re-introduction of right to appeal.</p>	
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**SUMMARY OF THE CONTENT OF THE BAR ADMISSION COURSE - 1987-88
(excerpted from the Spence Subcommittee Report)**

Substantive Materials Given	Substantive Areas Taught & Examined	Skills Programs	Other Programs
Civil Procedure	Civil Procedure	Practice Skills:	The Business of the Practice of Law
Family Law	Family Law		Legal Aid
Business Law	Business Law	Mandatory:	Money Management
Real Estate	Real Estate	Interviewing/ Counselling	Alternate Careers
Criminal Procedure	Criminal Procedure	Drafting	Women in the Practice of Law
Estate Planning and Administration	Estate Planning and Administration	Recognizing and Dealing with Ethical Problems	
Creditors' & Debtors' Rights	Creditors' & Debtors' Rights	Negotiation	
Basic Tax } Computer Accounting }	Accounting	Optional:	
Public Law	Public Law	Trial Advocacy	
Business of the Practice of Law	Multiple Options:	Criminal Advocacy	
Profession of Law	Residential Tenancies	Legal Writing	
	Exceptional Client	Computer Skills	
	Workers' Compensation		
	Employment Law		
	Profession of Law		

SUMMARY OF THE CONTENT OF THE BAR ADMISSION COURSE 2002

Substantive Courses and Examinations	Skills taught and/or Assessed
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Accounting	Agreement drafting
Business (Corporate, Tax, Insolvency)	Affidavit drafting
Civil Litigation	Civil litigation advocacy (motion argument; appeal factum writing)
Criminal	Criminal advocacy (sentencing submission)
Estate Planning and Administration	Examination for discovery
Family	Examination of witnesses at trial
Professional Responsibility and Practice	Interviewing
Management	Legal research
Public	Negotiation
Real Estate	Opinion letter
	Statutory analysis

APPENDIX 3: DEFINITION OF THE COMPETENT LAWYER (RULE 2.01(1))

In this rule

“Competent lawyer” means a lawyer who has and applies relevant skills, attributes, and values in a manner appropriate to each matter undertaken on behalf of a client including

- (a) knowing general legal principles and procedures and the substantive law and procedure for the areas of law in which the lawyer practises,
- (b) investigating facts, identifying issues, ascertaining client objectives, considering possible options, and developing and advising the client on appropriate course of action,
- (c) implementing, as each matter requires, the chosen course of action through the application of appropriate skills, including,
 - (i) legal research
 - (ii) analysis
 - (iii) application of the law to the relevant facts,
 - (iv) writing and drafting,
 - (v) negotiation,
 - (vi) alternative dispute resolution,
 - (vii) advocacy, and
 - (viii) problem-solving ability,
- (d) communicating at all stages of a matter in a timely and effective manner that is appropriate to the age and abilities of the client,
- (e) performing all functions conscientiously, diligently, and in a timely and cost-effective manner,
- (f) applying intellectual capacity, judgment, and deliberation to all functions,
- (g) complying in letter and spirit with the *Rules of Professional Conduct*,
- (h) recognizing limitations in one’s ability to handle a matter or some aspect of it, and taking steps accordingly to ensure the client is appropriately served,
- (i) managing one’s practice effectively,

- (j) pursuing appropriate professional development to maintain and enhance legal knowledge and skills, and
- (k) adapting to changing professional requirements, standards, techniques, and practices.

APPENDIX 4: A BRIEF HISTORY OF LEGAL EDUCATION IN ONTARIO

1. The current Bar Admission Course has its roots in the complex history of legal education in the province of Ontario. The long and sometimes difficult transition from a preparatory system focused primarily on reading law and articling in law offices to one that placed emphasis on professional education in a university setting continues to have repercussions today. The BAC evolved out of that transition and the fundamental assumptions underpinning it remain largely the same today.
2. Since its establishment in 1797 the Law Society of Upper Canada has been involved in the qualification process for those wanting to become lawyers. Although initially the sole elements of training were reading law and apprenticeship, examinations were soon added. After examinations were introduced as an element of the training regime, some lectures followed, but for many years they were provided intermittently and without any settled curriculum or coherent approach. Whereas other provinces in Canada had, by the 1880s, established a legal education system through their universities, the Law Society declined to follow that path.
3. In 1889, the Law Society founded a law school at Osgoode Hall under the direction of Convocation. Those holding a university degree attended a three-year program at Osgoode Hall involving a few hours of classes, with most of the day spent reading law and apprenticing in a law office. Those without a university degree were required to apprentice for two years before attending the three-year program at Osgoode. This approach remained unchanged for many years despite the emergence of innovative approaches to legal education in the United States, including, for example, the “case” method of instruction and despite the endorsement of this approach by the Canadian Bar Association and western Canadian Law Societies. Although the University of Toronto established a law school, the Law Society did not give credit toward the admission process to graduates of that program.
4. The first serious challenges to Convocation’s authority over education occurred in the 1920s and 1930s. These challenges were based on the increasingly-held view that the

education of the professions should be done in universities. Critics charged that the notion of law as a “trade” that could best be taught by those already in it was limited and limiting. Legal education, they insisted, must not be simply about learning existing rules of practice, but about the principles, context, and science of the law. Over time, these views gained increasing favour, not only outside the Law Society, but also within it where, for example, Cecil (Caesar) Wright, Dean of Osgoode Hall Law School, became a strong proponent of reform.

5. Still, a majority of benchers continued to believe that university education would be too theoretical and research-oriented to be of use to most candidates seeking to practise law. During this period, however, the increasingly uneven nature of students’ articles weakened the argument that practical education made for the best lawyers. The Law Society’s response was to cut back on the class lecture component of the program so as to enhance articling, rather than opt to approve university-based legal education. Nonetheless, the push for fundamental reform, including the abolition of articling, continued unabated.
6. Following the Second World War, the issue of who should control legal education and what that education should involve came to crisis, intensified by the significant increase in numbers of those seeking admission to the bar and the attendant pressures on the capacity of the Law Society to accommodate them.
7. In 1949, a Law Society Committee examining legal education acknowledged that the system was troubled, but controversy arose out of the nature of the Committee’s recommendations. In response to recommendations with which the faculty of Osgoode disagreed, Dean Wright and most of the faculty resigned. Wright became the Dean of the law school at the University of Toronto and sought to have the provincial government remove authority for legal education from the Law Society.
8. The legal education issue had become a serious problem for the Law Society and the profession. After the faculty resigned, Convocation approved a new approach by introducing a four-year program consisting of two years of full-time study, followed by one year of office work, and one year combining lectures and articling.
9. When the University of Toronto asked that its three-year degree be counted as the equivalent of the two-year study program at Osgoode, the Law Society accepted. The resulting shorter route to call through Osgoode (four years instead of five) worked against the University of Toronto program, because candidates wanted to be called to the bar as quickly as possible. The University’s subsequent requests for its graduates to be

exempted from three of the four required years were rejected, reflecting the Law Society's continuing concern that the university's degree did not adequately prepare candidates to practise law.

10. By the mid 1950s, however, the Law Society's rationale for exercising control over legal education and its will to do so in the face of over-burdened resources had dissipated. Over several years, discussions took place with the universities. In 1957, the Law Society and the universities negotiated a "New Deal" in legal education.
11. Pursuant to the agreement, any university could develop a three-year LL.B. program. The pre-requisite for admission to the LL.B. program would be two years of undergraduate education. The Law Society would recognize these degrees, provided the LL.B. program followed certain criteria for curriculum, staff and libraries. Graduates wishing to practice law would serve a twelve-month period of articles. To supplement articles there would be a post-LL.B. training program in substantive law, at Osgoode Hall, supervised by law school faculty and practising members of the profession.

APPENDIX 5: UNITED STATES LICENSING REQUIREMENTS

Generally

1. In the United States, law students usually complete a three-year law degree, then are required to pass licensing examinations in the state or states in which they wish to be called to the bar. There is no articling requirement and no further mandatory pre-call legal education. Licensing examination preparation courses exist in many states, but their primary goal is to facilitate the candidates' passage of the licensing examinations, not educate those about to be called to the bar.
2. Legal education in the United States has had a long history of being taught in a university setting. The legal profession is not governed by self-regulating regulatory bodies, but by the courts. Thus the bar has never "directed" legal education as has been the case in Ontario. Articling and bar admission programs have not played a role in the education of American lawyers and there is no suggestion that they will in the future.
3. Generally speaking, candidates for admission to the various state bars write examinations that consist of some or all of the following⁴: the multi-state bar examination (MBE), the multi-state essay examination (MEE), the multi-state professional responsibility examination (MPRE) and the multi-state performance test (MPT):⁵
 1. The MBE consists of 200 objective multiple choice questions to be answered over a six hour period. The areas tested include constitutional law, contracts, criminal law and procedure, evidence, real property and torts. All states and jurisdictions use the MBE, except Louisiana, Washington and Puerto Rico.
 2. The MEE consists of three one hour essay questions. The questions are designed to measure the applicant's ability to analyze legal issues arising from fact situations. The areas of law covered are agency and partnership, commercial paper, conflict of laws, corporations, decedents' estates, family law, federal civil

⁴Washington state is one of the few jurisdictions that does not use any of the multi-state examinations, but administers its own tests and covers more substantive law, local to Washington state. For more information see www.wsba.org

⁵A number of states have developed their own essay and performance test examinations. Passing scores vary with each state.

procedure, sales, secured transactions and trusts and future estates. Fifteen states use the MEE. A number of states, such as California, have their own essay examinations.

3. The MPRE consists of 50 multiple choice test items covering a wide range of professional responsibility principles, often relying on the ABA Model Rules of Professional Conduct. All states and districts except Maryland, Puerto Rico, and Washington state use the MPRE.
4. MPT questions are designed to test an applicant's ability to understand and apply a select number of legal authorities in the context of a factual problem. Each question consists of a file and library, with instructions advising the applicant what task(s) should be performed. Twenty-nine states use the MPT. Others have developed their own tests.

California

4. Eligibility to take the bar examination in California is not limited to J.D. or LLB graduates of American Bar Association-approved law schools, but is open as well to those whose legal study is through:
 1. non-ABA approved in-state schools approved by the state authority;
 2. unapproved in-state schools;
 3. law office study; and
 4. correspondence course.
5. Applicants who obtain their legal education by attending unaccredited schools, correspondence courses or law office study must take an examination after their first year.
6. The California Bar Examination consists of the General Bar Examination (GBE) and the Attorneys' Examination (AE). The GBE has three parts: six essay questions, the MBE and two performance tests (PTs), written over three days. The AE consists of six essay questions and two PTs from the GBE. California also administers the MPRE.
7. The subjects covered in the MBE are: Constitutional Law, Contracts/Sales, Criminal Law/Procedure, Evidence, Real Property, and Torts. The subjects covered in the essay examination are: Civil Procedure, Corporations, California Community Property, California Professional Responsibility, Remedies, Trusts, California Wills & Succession, plus all MBE subjects.

8. The examinations typically result in a relatively high failure rate for those writing for the first and even subsequent times. The pass/fail statistics for the February 2001 sitting, indicating an overall pass rate on the GBE for first-time takers of 52.5 %, 29.4 % for repeaters, and 37.3% overall. The total number writing the February 2001 GBE was 4,488.
9. California is a mandatory CLE state. Lawyers are required to take 25 hours per 3-year period including 4 hours ethics, 1 hour substance abuse/emotional distress, and 1 hour of elimination of bias.

Illinois

10. Eligibility to take the bar examination in Illinois is limited to J.D. or LL.B graduates of American Bar Association-approved law schools.
11. The Illinois Bar Examination consists of a 12-hour two-day examination. Day One covers the Illinois Essay Exam (three 30-minute essay questions, one 90-minute MPT and the MEE. Day Two is the 6-hour 200 question MBE. Candidates must also pass the MPRE, which can be taken during law school.
12. Subjects covered on the MBE examination are constitutional, contracts/sales, criminal law and procedure, evidence, real property, and torts. Subjects covered on the essay exam are agency, commercial paper, conflicts, corporations, equity, family, federal jurisdiction and procedure, civil procedure, partnerships, personal property, sales, secured transactions, suretyship, trusts and future interests, and wills.
13. In 2001 the pass rate for first time takers of the Examination was 83% and all takers 79%. The higher first and second time high pass rate may reflect the fact that Illinois only permits graduates from ABA accredited schools to take the examination.
14. Illinois is not an MCLE state.

Massachusetts

15. Eligibility to take the bar examination in Massachusetts is not limited to J.D. or LL.B graduates of American Bar Association-approved law schools. Graduates from non-ABA approved in-state schools are eligible.

16. The Massachusetts Bar Exam is a two-day exam. Day 1: Multi-state Bar Exam (MBE). Day 2: ten essay questions. Candidates are also required to take the MPRE.
17. Subjects covered on the MBE are: Constitutional Law, Contracts/Sales, Criminal Law/Procedure, Evidence, Real Property, and Torts.
18. Subjects covered on the essay examination are : Agency, Commercial Paper, Consumer Protection, Corporations, Domestic Relations, Federal Jurisdiction, Mortgages, Massachusetts Practice & Procedure, Partnerships, Professional Responsibility, Secured Transactions, Trusts, Wills, plus all MBE subjects.
19. In winter, 2001 the pass rate for first time takers was 68% and for all takers was 52%.
20. In summer, 2000 the pass rate for first time takers was 79% and for all takers 73%.
21. In summer,1999 the pass rate for first time takers was 80% and for all takers was 74%.

New York

22. Eligibility to take the bar examination in New York is not limited to J.D. or LL.B graduates of American Bar Association-approved law schools. Law office study is permitted after successful completion of one year at an ABA-approved law school. Graduates of non-ABA approved law schools can write the examination if they have at least five years active and continuous practice within the last seven years in some other state or states.
23. The New York Bar Exam is a 2 day exam. Day 1: One MPT question (worth 10%), five New York essay questions (worth 40%) and 50 New York multiple-choice questions (worth 10%). Day 2: MBE (worth 40%). Candidates must also pass the MPRE.
24. The MBE covers the following subjects: Constitutional Law, Contracts/Sales, Criminal Law/Procedure, Evidence, Real Property, Torts. New York portions of the examination cover Agency, Commercial Paper, Conflict of Laws, Corporations, Domestic Relations, Equity, Estate Taxation, Federal Jurisdiction, Future Interests, Insurance (No Fault), Mortgages, New York Practice & Procedure, New York Professional Responsibility, Partnership, Personal Property, Secured Transactions, Trusts, Wills, Workers' Compensation, plus New York distinctions for all MBE subjects.
25. In the July 2001 sitting of the examination, of the 9194 applicants examined, 6475 or 70.4% passed the examination. Of the 5136 applicants taking the examination for the first

time, 4089 or 79.6% passed.

26. In the July 2000 sitting of the examination, of the 8,896 applicants examined, 6,006 or 67.5% passed the examination. Of the 7,356 applicants taking the examination for the first time, 5,516 or 74.9% passed.
27. New York has recently become a mandatory CLE state. During each of the first two years after call, newly admitted attorneys must complete 16 CLE hours including three in ethics, six in skills, and seven in practice management. Thereafter, all New York attorneys must complete 24 CLE hours every two years.

APPENDIX 6: ARTICLING STUDENT FEEDBACK REPORT 2001



The Law Society of
Upper Canada

Barreau

du Haut-Canada

ARTICLING STUDENT FEEDBACK REPORT 2001

**Articling & Placement Office
Bar Admission Department
Law Society of Upper Canada
December 10, 2001**

Articling Student Feedback Report

Report Highlights

- Survey 2001 provides a positive snapshot of the articling experience. 94% of respondents rated the articling experience favorably, indicating that the articling program prepared them “well enough” or “very well” for the practice of law. In Survey 2000, only 80.7% of respondents gave this rating.
- 63.7% of students articling in the 2000-2001 articling term (Survey 2000 – 18.6%) responded to this survey, representing a significant increase over the response rate of the previous year’s survey.
- 70% of respondents (Survey 2000 – 48%) indicated that they had been provided with an education plan. Preliminary review of final evaluations for the articling term 2000 – 2001 indicates that over 90% of students received education plans by the time they completed their final evaluations, suggesting that changes made pursuant to comments received from respondents to the Survey 2000 were effective.
- 64% of respondents (Survey 2000 - 51%) consider that the current evaluation process is adequate, indicating that changes made pursuant to comments received from respondents to the survey administered in 2000 were effective.
- The majority of students-at-law perceive themselves as receiving practical training (66.4%), in relevant legal skills (63.5%), from a helpful principal (53.1%). 52.8% of respondents rated the broad experience of their articling placements positively.
- Significant decreases were noted in the percentage of students identifying areas of weakness in their articling placements. 20.8% (Survey 2000 – 29.4%) of respondents were concerned about the amount of routine tasks at their articling placement and 19.3% (Survey 2000 – 28.9%) about their lack of exposure to business.
- The percentage of respondents reporting incidents of discriminatory incidents decreased by over 50% (Survey 2001 - 14.2%; Survey 2000 - 29.4%), suggesting that efforts by the APO and Equity Initiatives Department to ensure equity in the experiences in articling students have been effective. (Survey 2001 – 56.5% indicated no discrimination and 29.3% did not respond; Survey 2000 – 45.6% indicated no discrimination and 25.0% did not respond.)
- Non-traditional placements (joint, part-time, international, national, abridged, split) continue to provide valuable options and flexibility for Bar Admission Course students. Approximately 5% of students took advantage of these options in the 2000-2001 articling term.

Articling Student Feedback Report

Report Highlights

I. Introduction:

- Purpose
- Background

II. Demographic Information

- Background
- Gender
- Self-identified Group Membership (mature, disabled, visible minority, gay/lesbian, Aboriginal, Francophone)

III. Articling Placement Information

- Background
- Traditional (12 month consecutive full time) and 'non-traditional' articling terms
- Education plans
- Rating of the articling experience, as compared to the experience anticipated in education plan
- Overall rating of the articling experience
- Effectiveness of current evaluations

IV. Relevance of Articling to Career/Practice

- Background
- Preparation Strengths
- Preparation Weaknesses

V. Treatment of Articling Students

- Background
- Incidence of discriminatory experiences

VI. Conclusion

Appendix 1: Survey Questions

Appendix 2: List of Tables

I. Introduction:

1. Purpose

- a. Each year the Articling & Placement Office (“APO”) conducts an anonymous survey of Bar Admission Course (“BAC”) students to solicit information about their articling experiences. The survey questions and response data have been assembled into this, the Articling Student Feedback Report¹, with discussion and recommendations. The APO administers surveys, such as this one, to ensure that articling processes remain relevant, to assess student satisfaction and to identify areas for improvement.

2. Background

- a. The survey upon which this report (“Survey 2001”) is based was distributed to students of the 43rd BAC during the latter half of their articles (Spring 2001) with the end-of-term documents. The previous year’s survey of the 42nd BAC (“Survey 2000”) was given to students during Phase 3, after articling had been completed. The change was made for two reasons. The first was that by including the survey as part of the final articling documents it was hoped that more students would complete it. Secondly, it was thought that the information being solicited would be fresher in the students’ minds.
- b. The fact that the APO received a response rate of 63.7%, a very high response to any APO administered survey, would seem to bear out the first reason for the timing change mentioned above. The APO received 735 responses from 1153 students enrolled in the 43rd BAC. By comparison, the response rate for Survey 2000 was 18.6%.
- c. Because of the Survey 2000 low response rate, the data in Survey 2000 has been further analysed for validity. Distributions of gender, age, self-identification with membership groups, and type of articling placement indicate that the data is reasonably valid as compared to the whole population of the 42nd BAC. The exceptions are that higher percentages of females and Francophones responded to the survey than appeared to be representative of the 42nd BAC.
- d. The articling phase is the longest of the BAC’s three phases. In September 2000 Convocation reduced the length of the articling term from 12 months to 10 months, effective January 1, 2001. The respondents to this survey were the final BAC class required to complete the ‘old’ 12 month requirement.
- e. The quality of training that students receive varies greatly and depends largely on the student’s relationship with his/her articling principal. By requiring the approval of principals and education plans, which outline the training that a principal will provide, it is hoped that an acceptable level of both quality and

¹ The previous year’s report, based on the 42nd BAC, was titled ‘Employment Survey Report’.

exposure to skills will be achieved. In addition, students complete midterm and final evaluations comparing the actual experience to that anticipated in the education plan. The midterm evaluation is intended to refocus both the student's and principal's attention on accomplishing the education plan's goals².

II. Demographic Information

3. Background

- a. Demographic indicators, discussed below, are collected for various reasons. The first is to ensure that the demographic makeup of the survey respondents is similar to that of the BAC class as a whole, which in turn validates the response data. Second, having demographic information can help to identify trends or experiences that have developed within the articling program as a whole that may correlate to specific groups of the BAC class. Third, cross-tabulation of this information provides additional and important insights into the data.
- b. Three questions were included in the survey relating to demographic information about the 43rd BAC class in general and the survey respondents specifically.
 - a. What is your gender?
 - b. What is your age?
 - c. Denote any of the following groups of which you consider yourself a member: Francophone, Disabled, Visible Minority, Gay/Lesbian, Aboriginal, Mature, Other

4. Gender: Response Data

- a. Of the 735 survey respondents, 397 indicated that they are female, 335 indicated male and 3 chose not to respond. The percentage of females exceeds that of males.

b. Table 1: Gender Distribution

Gender	Survey 2001		43 rd BAC	42 nd BAC	41 st BAC
	#	%	(%)	(%)	(%)
Female	397	54.2	51.5	51.3	49.6
Male	335	45.8	48.5	48.7	50.4
Total ¹	732	100.0	100.0	100.0	100.0

¹ 'No responses' (3) were not included.

² A report (the "OISE Report") entitled 'Options in the Evaluation of Articling Experiences', commissioned by the APO, was completed in September 2001 by Doug Hart, Ph.D., from University of Toronto's Ontario Institute for Studies in Education. The report studied the current articling evaluation forms and presented options for ensuring an efficient and valuable evaluation process in the future.

5. Gender: Discussion

- a. This question is useful in validating the survey responses. The new database that is in use for the 44th BAC class, those students entering the BAC in 2001, does not record or track gender information. In future, this survey may be the only source for this information.
- b. The survey response data represents a slightly larger gender gap than that within the class as a whole. This suggests a somewhat greater response rate or inclination to respond to this survey among females.
- c. This data was cross-tabulated with the Treatment of Articling Students data in Section V following.

6. Self-identified Group Membership: Response Data

a. Table 2: Age Distribution

Age Groups	Survey 2001		Survey 2000
	#	%	%
20 - 25 years	101	13.8	8.4
26 - 30	493	67.3	67.5
31 – 35	77	10.5	9.4
36 – 40	28	3.8	7.4
Over 40	34	4.6	7.4
Total ¹	733	100.0	100.0

¹ ‘No responses’ (2001 – 2; 2000 - 1) not included.

b. Table 3: Self-identified Group Membership Distribution

Demographic Group ¹	Survey 2001		43 rd BAC	42 nd BAC
	#	%	%	%
Francophone	39	5.3	- ²	- ²
Disabled	7	1.0	2.0	1.1
Visible Minority	134	18.2	16.1	14.5
Gay/Lesbian	10	1.4	1.2	0.7
Aboriginal	11	1.5	1.8	1.2
Mature	59	8.0	4.9	- ¹
Other	25	3.4	- ¹	- ¹

¹ Survey respondents could choose more than one response.

² These groups were not available choices on the applicable application.

7. Self-identified Group Membership: Discussion – General

- a. Age data collected through this survey is available empirically from the BAC applications. Unfortunately, the database is difficult to manipulate for such information and the resources that would be required were not justifiable within the context of this report.
- b. The number of respondents who indicated ‘Francophone’ (39) compares favorably with enrollment in the 2000 French BAC Phase 1 Course (34).
- c. ‘Disabled’, ‘Gay/Lesbian’ and ‘Aboriginal’ groups, taken individually, have historically constituted a small percentage of the BAC class. Consequently, a small change in the absolute number of students within these groups each year can cause large relative fluctuations when comparing one year to the next on a percentage basis.
- d. To verify and evaluate the data from this survey, the data has been compared to that which was collected on the BAC application. The percentage of respondents who self- identified on the survey is reasonably reflective of the BAC application data, except where otherwise noted below.

8. Self-identified Group Membership: Discussion - Disabled

- a. Twenty-four students identified as a ‘person with a disability’ on the BAC application. However, only 7 survey respondents have identified as ‘Disabled’, which is lower than would be expected with such a high response rate to the survey. This discrepancy may be explained by the slightly different but possibly significant difference in phrasing between the survey and the BAC application. The BAC application used the phrase ‘Persons with a disability’ whereas the survey used the term ‘Disabled’. Respondents may have interpreted ‘Disabled’ more restrictively (i.e. physical disability) whereas the BAC application phrasing may have been considered more expansively to include learning or mental disabilities. Future articling surveys will use the term “persons with a disability”.

9. Self-identified Group Membership: Discussion – Age Distribution and Mature Group data

- a. In the voluntary disclosure category dealing with age (Mature), there were more ‘mature’ respondents in the survey (59) than in the entire 43rd BAC class (57). This discrepancy likely occurred because the BAC application further defined the Mature label to be ‘over 40’ whereas the survey did not include this ‘over 40’ specification. Survey respondents made a subjective decision on the meaning of ‘Mature’ that included ages below 40 and cross-tabulation of the age data with the ‘mature’ disclosure confirms this. Of the 59 students who identified themselves as ‘mature’, only 24 (41%) were ‘over 40’. Sixteen of the ‘mature’ respondents were 36-40, 18 were 31-35 and one was 26-30. Therefore, high percentages of the students who are either 31-35 or 36-40 considered themselves

‘mature’ but did not indicate such on the BAC application due to the ‘over 40’ definition that accompanied the designation.

- b. The application for the 45th BAC has been amended to remove the “over 40” qualification and it is that an increased number of ‘mature’ students will self-identify on their BAC applications in 2002.

10. Self-identified Group Membership: Discussion – Comments

- a. Twenty-five respondents indicated that they are members of the group ‘other’. Nineteen of those 25 provided a comment/definition with their response, many of which had a similar basis and can be grouped or categorized according to the following table.

Table 4: Self-identified Membership Groups Categorization of Comments.

Category	Survey 2001 #
Religious	4
Gender	2
Parental status	3
Ethnic minority	8
Distinct comments ¹	2
Total	19

¹ These two comments did not fall within any of the other categories. One comment was ‘foreign trained lawyer’ while the other was expanding on an existing question response choice (gay/lesbian to gay/lesbian/bisexual)

- b. A number of respondents feel strongly about identifying specific cultural or ethnic characteristics of themselves. Future surveys might include additional categories to capture this information. No ‘other’ choice was available on the previous year’s survey.
- c. Future surveys should ensure consistency in phrasing between the BAC application and the survey if the survey data is to be compared in any way to the BAC application data. Otherwise a conscious decision has to be made to evaluate and examine the survey data independent of other sources.

III. Articling Placement Information

11. Background

- a. Options are available to students to modify their articling term to enable alternate scheduling and/or varied practical experience. Collectively, the possible articling modifications are referred to as ‘non-traditional’ placements, where a ‘traditional’ placement would refer to consecutive months of full-time service with one employer/principal.
- b. Firms/Principals must submit and receive approval by the APO of an education plan that outlines the experience that a student can expect to receive. It is expected that the Firm/Principal will in turn provide the student with the education plan. In response to Survey 2000 which indicated that about one half of articling students were not receiving a copy of their education plan, the APO has been emphasizing the importance of the education plan, in communications and publications, since that survey result was compiled.
- c. Students complete articling evaluations at the midpoint and end of the articling term. These evaluations provide an opportunity for students to compare their articling experience with what was anticipated in the education plan, and are intended to be submitted independently by the student without being seen by the principal. As anecdotal evidence suggested that some principals were pressuring students to prepare the evaluations together prior to submission, questions about ratings were included in this anonymous survey.
- d. This year’s survey posed five questions that related to the specific articling experience that the students undertook and their evaluations of the experience. The five questions asked were:
 - i. In what type of traditional (12 month consecutive full time) or non-traditional articling experience did you participate (Traditional, Joint, Part-time, International, National, Abridged, Split)?
 - ii. Have you been provided with your education plan?
 - iii. How would you rate your articling experience as compared to the experience anticipated in your education plan?
 - iv. Overall, how would you rate your articling experience?
 - v. Do the current forms provide an adequate system for review during the articling experience?

12. Traditional/Non-traditional Articling - Response Data
a. Table 5: Types of Articling Placements

Placement Type	Survey 2001		43 rd BAC
	#	%	
Traditional ¹	695	94.6	-
Joint	4	0.5	0.8
Part-time	0	0.0	0.4
International	5	0.7	1.3
National	6	0.8	0.6
Abridged	11	1.5	2.8
Split	17	2.3	1.9

¹ Traditional' placements are not tracked.

13. Traditional/Non-traditional Articling - Discussion:

- a. The APO approves non-traditional arrangements that provide a student with sufficient training and supervision within the same skill areas as required by traditional placements. In the spirit of enabling flexibility and alternate options to today's BAC students, the APO is proactive in developing acceptable education plans for non-traditional placements.
- b. Overall, there are 90 students, from a total class of approximately 1150, using the available non-traditional options. This represents a significant proportion (7.8%) of the class who may have otherwise been unduly delayed in receiving their call and/or missed a valuable learning experience, and/or been unable to find a 'traditional' placement with which to fulfill the articling requirement.

14. Education Plan: Response Data

a. Table 6: Provision of Education Plan

Provision of Education Plan	Survey 2001		Survey 2000
	#	%	%
Yes	517	70.3	47.2
No	204	27.8	52.8
Totals ¹	721	100.0	100.0

¹ 'No-responses' were excluded (2001 – 14; 2000 - 11)

15. Education Plan: Discussion

- a. Survey 2000 suggested that more than half of articling students were not receiving education plans. Anecdotal evidence had suggested such a problem, which prompted the APO to include the question in the survey.

- b. The results of Survey 2000 caused the APO to undertake numerous initiatives and implement changes to improve the distribution of education plans to students. Following is an outline of the initiatives and changes undertaken:
- physical review of all APO articling firm and principal files to identify if there was an approved education plan in place
 - informing all approved articling principals (2000/01) without education plans on file with the APO that their renewal as a principal (2001/02) was contingent upon the submission of an acceptable education plan
 - inclusion, in the letter of confirmation of approval/renewal as a principal, of a paragraph outlining the importance of the education plan, the need to provide the student with a copy, and the necessity to submit any new or revised plans to the APO for approval
 - expanded explanations/descriptions relating to education plans in the revised Articling Handbook 2001, and increased emphasis on their importance
 - sample education plans posted on the APO's web site
 - commencement of initiative to develop relevant education plans for clerkships at various levels of provincial and federal courts
 - APO materials distributed to students included suggestions/encouragements that they should be asking for copies of the education plan
- c. The response outlined in Table 6 indicates that the APO initiatives have had a significant positive impact on the number of students who have received a copy of the education plan. The number of students reporting that they were not provided with the education plan has dropped from 52.8% to 27.8%. Preliminary review of final evaluations for the articling term 2000 – 2001 indicates that over 90% of students received education plans by the time they completed their final evaluations, suggesting that changes made pursuant to comments received from respondents to the Survey 2000 were effective.
- d. In 2001, the APO's physical review of its principal and firm files identified 218 principals without education plans. Only those principals who submitted new plans were approved as principals, resulting in an additional 100 principals who submitted plans. It is expected that the number of students who are not provided with an education plan will decrease further, as a direct result of this APO initiative.

16. Rating of Articling Experience as Compared to Experience Anticipated in Education Plan: Response Data

a. Table 7: Rating of Articling Experience, as Compared to Education Plan

Rating, as Compared to Education Plan	Survey 2001 %	43rd BAC Mid-term Evaluation %	43rd BAC Final Evaluation %	Survey 2000 %
Very Good/Excellent	56.6	54.7	59.1	48.2
Good	34.0	34.0	30.6	28.7
Satisfactory	7.8	10.0	8.6	18.2
Poor/Unsatisfactory ¹	1.6	1.3	1.7	4.9
Totals ²	100.0	100.0	100.0	100.0

¹ The surveys' lowest rating was labeled 'poor' whereas the evaluations used the label 'unsatisfactory'. For the purposes of this report it is assumed that the two categories are equivalent.

² The total for the surveys are based on those respondents who indicated that they had received their education plan, with Survey 2001 adjusted for 33 respondents who indicated that they had no education plan but gave a rating, despite the question's phrasing. The totals for the evaluations are based on all evaluations that have been submitted by the 43rd BAC students.

17. Rating of Articling Experience as Compared to Experience Anticipated in Education Plan: Discussion

- a. Encouragingly, articling students have consistently indicated high levels of satisfaction with the articling experience, as compared to their education plans. On each of Survey 2001 and the two articling evaluations for the 43rd BAC, approximately 90% of respondents indicated ratings of 'good' or better.
- b. As stated earlier, during the articling term students are required to complete a midterm and a final evaluation, which include an overall rating scale that is very similar to the response choices on the survey. Table 7 shows that there is little variation in the numbers when each category is compared, except for the higher number of students who indicate a poor/unsatisfactory experience in Survey 2000, which may be connected to the lower response rate of that survey.

18. Overall Rating of Articling Experience: Response Data

a. Table 8: Overall Rating of Articling Experience

Overall Rating	Survey 2001		Survey 2000
	#	%	%
Very Good/Excellent	429	58.6	47.5
Good/Satisfactory	282	38.5	47.5
Poor	21	2.9	5
Totals ¹	732	100.0	100.0

¹ 'No Responses' not included (2001 – 3; 2000 – 7)

19. Overall Rating of Articling Experience: Discussion

- a. Survey 2001 included a typographical error, which resulted in the categories 'good' and 'satisfactory' being transposed. Therefore, the data in Table 8 is presented as a combined 'Good/Satisfactory' rating.
- b. 97% of respondents (2000 – 95%) provided a positive rating for their articling experience.

20. Adequacy of Articling Evaluation: Response Data

Table 9: Adequacy of Articling Evaluation Process

Adequacy of Evaluation Process	Survey 2001		Survey 2000
	#	%	%
Yes	468	63.7	50.5
No	246	33.5	40.7
No Response	21	2.8	8.8
Totals	735	100.0	100.0

21. Adequacy of Articling Evaluation: Discussion – General

- a. 63.7% of respondents (2000 – 50.5%) were satisfied with the evaluation process.
- b. In 2001, the APO undertook a major inquiry relating to the evaluation process. Doug Hart, Ph.D., a consultant from the University of Toronto's Ontario Institute for Studies in Education was retained to research and prepare a report, entitled *Options in the Evaluation of Articling Experiences*, to examine evaluations in the context of models for professional training. It is intended that the APO's evaluation forms and processes will now be examined for possible revision in light of the report's findings.

- c. Articling Handbook 2001 was revised to include more information about evaluations. The APO's web site was also updated in 2001, which increased awareness of the evaluation process and afforded additional access to the evaluation forms. Several of these changes/initiatives took place since the distribution of Survey 2001 and it is hoped that they will improve the effectiveness of the evaluation process for subsequent BAC students.
- d. The APO has also been working with the various Provincial and Federal Courts to develop evaluation forms that are specific and relevant to the clerkship experience. Previous evaluations were largely inapplicable to court clerkships. These new evaluations will also be in use by the 44th BAC students.

22. Adequacy of Articling Evaluation: Discussion of Comments

- a. Overall, 200 comments were received from students in relation to this question on the evaluation process. The challenges faced in trying to revise the evaluation process are illustrated in these comments. For every comment criticizing one aspect of the process, there is another comment expressing the opposite opinion. There seems to be little consensus among students themselves concerning the best process/method for evaluating the articling experience.
- b. Several comments touched on more than one topic. The comments were categorized into the following groups, with the number of comments for each category in brackets:
 - Form design criticisms (57)
 - Evaluations considered helpful as a communications tool (48)
 - Criticisms of the evaluation process (22)
 - Merits of qualitative evaluation vs. quantitative evaluation (18)
 - Confidentiality, or lack of it, in completing evaluations (13)
 - Timing of the process (12)
 - Comments related to education plans (8)
 - Unconstructive or off-topic comments (22)
- c. Survey 2000 recorded a number of comments from court clerks complaining that the evaluation forms were not relevant to their experience. As noted above, the APO has undertaken to develop relevant forms for courts. As a result, there was a decrease in comments on this topic.
- d. Considering that the comments criticizing the forms' design are largely contradictory and the second largest comment category relates to positive comments, the outstanding issues do not appear to be viewed as problems by large portions of the BAC class.
- e. Confidentiality concerns are being addressed as part of the privacy review being undertaken by the Law Society.

- f. Many of the process criticisms relate to the students' lack of knowledge about the results or follow-up procedure that occurs after the evaluations are submitted. The Articling Handbook 2001 was revised to explain the process. A similar explanation may be added to the evaluation form itself to increase awareness.

IV. Relevance of Articling to Career/Practice

23. Background

- a. The Articling Program is intended to provide BAC students with practical skills training in areas that are considered essential to the practice of a lawyer. Therefore, it is important that the APO determine whether or not articling students feel that the training they received was valuable and will assist them in performing the duties and responsibilities of a lawyer.
- b. Students were asked the following three questions:
- i. How do you feel articling prepared you for the area of law you intend to practice?
 - ii. What, if anything, was it about the articling component of the BAC that did not prepare you for the area of law you intend to practice?
 - iii. What aspects of articling did you find the most helpful?

24. Preparation Strengths: Response Data

a. Table 10: Rating of Articles as Preparation for Practice of Law

Rating as Preparation for Practice of Law	Survey 2001		Survey 2000
	#	%	%
Not at all	7	1.0	2.5
Not very well	36	5.0	16.8
Well enough	356	49.0	51.3
Very well	328	45.0	29.4
Totals ¹	727	100.0	100.0

¹ No Responses (2001 – 8; 2000 – 7) were not included.

b. Table 11: Most Helpful Aspects of the Articling Experience

Most Helpful Aspect (s)	Survey 2001		Survey 2000
	#	%	%
Good practical training	488	66.4	61.3
Principal helpful	390	53.1	55.9
Learned relevant skills	467	63.5	61.8
Broad experience	388	52.8	Not listed
Other	50	6.8	14.7

25. Rating of Articles as Preparation for Practice of Law: Discussion of Table 10

- a. 94% of respondents (2000 – 80.7%) felt that articling has prepared them either ‘well enough’ or ‘very well’ for the area of law that they intend to practice. This indicates that the articling program is fulfilling its mandate of providing practical legal training to students-at-law.
- b. Cross-tabulation of respondents who participated in a ‘non-traditional’ articling placement and this data indicated that 42 of 43 respondents felt that they were prepared ‘well enough’ or ‘very well’. This indicates that, far from compromising a student’s practical training/preparation, non-traditional options result in a high level of satisfaction with legal preparedness, in the students’ opinion.
- c. Cross-tabulation of respondents without an education plan and this data indicated 71% of respondents who indicated that they were ‘not at all’ prepared and 47.2% of respondents who indicated that they were not well prepared were not provided with an education plan, compared to 30% overall who did not receive their plans. The APO is continuing efforts to ensure that students are provided with their education plans.

26. Most Helpful Aspects of the Articling Experience: Discussion of Table 11

- a. The high response rate on this question further confirms that the goals of the articling program are being met. The majority of students-at-law perceive themselves as receiving practical training (66.4%) in relevant legal skills (63.5%) from a helpful principal (53.1%). 52.8% of respondents rated the broad experience of their articling placements positively.
- b. Although just over half of the respondents (2001 - 53.1%; 2000 – 55.9%) indicated that their principal’s help was one of the most helpful aspects of their articling experience, given the significant role that the principal is intended to fulfill, this percentage raises concerns. The articling program has followed an apprenticeship type model of training. However, if almost one half of respondents (in 2001 and 2000) have not ranked their principals’ helpfulness as

a strength of the articling experience, this issue should be reviewed in greater depth. Future surveys may include additional questions to further explore this matter. Other professional training models, as identified in the OISE Report, might also be further examined in the articling context (see Paragraph 21.b. above).

- c. 'Other' comments provided generally elaborated on responses already chosen and thus were not useful. It would be reasonable to eliminate the 'other' response in future surveys.

27. Preparation Weaknesses: Response Data

a. Table 12: Weaknesses of Articling in Preparation for Practice of Law

Area of Weakness ¹	Survey 2001		Survey 2000
	#	%	%
Too many routine tasks	153	20.8	29.4
Not learning business aspect	142	19.3	28.9
Too much time on research	104	14.1	18.1
Plan to practice in another area	89	12.1	14.2
Experience not broad enough	82	11.3	Not listed
Lack of communication w/ principal	72	9.8	Not listed
Experience not practical enough	72	9.8	15.2
Other	59	8.0	15.7

¹ 'No responses' were not included (2001 – 265). Respondents were able to choose more than one response.

28. Preparation Weaknesses: Discussion

- a. Survey 2001 response distribution was relatively even across the seven specific categories, with 'too many routine tasks' and 'not learning business aspects' receiving the highest responses. 470 respondents account for 773 responses, with many of the respondents choosing more than one category.
- b. The data in Table 10 indicates that 43 respondents (7 'not at all' + 36 'not very well') felt they were not adequately prepared for practice by articling. Therefore, of the 470 respondents who indicated weaknesses in this question, over 90% did not feel that the weaknesses were significant enough to have compromised their overall preparation for practice.
- c. 'Too many routine tasks', chosen by 20.8% of the respondents was the most frequent response to this question, as it was on last year's survey. However, last year the percentage of respondents choosing this category was significantly

higher at 29%. Routine tasks are specifically addressed by most education plans, which generally specify that a student will only be expected to perform such tasks 'on occasion'. The phrase 'routine tasks' as stated on the survey without context or definition is open to interpretation.

- d. The APO revised 2000 - 2001 articling evaluation forms to incorporate additional questions and ask for more detail with respect to 'routine tasks' as a result of the high percentage of respondents who indicated too many routine tasks on Survey 2000. Those revisions may account for some of the decrease from last year to this year as students may now have a better understanding of what constitutes a 'routine task'.
- e. 19.3% of respondents indicated that they were 'not learning business aspects'. This group includes students who work for government ministries, agencies, corporate legal departments and large firms. Typically, these students receive less training in business aspects than those in small to mid-size legal firms.
- f. All categories have shown decreases since Survey 2000 was administered.
- g. 'Other' comments provided generally elaborated on responses already chosen and thus not useful. It would be reasonable to eliminate the 'other' response in future surveys.
- h. Through revisions of the Articling Handbook, web-site material and other documents and forms, the APO encourages better communication between students and principals. Clarification of routine task expectations is continuing.
- i. The APO is also considering the development of a web-based learning module to address business aspects.

V. Treatment of Articling Students

29. Background

- a. While it is hoped that all articling students will receive an experience that is free from harassment and/or discrimination, the APO is aware that some students are subjected to unacceptable behavior during their placements. The APO uses this survey to try to quantify and qualify the treatment that students receive, from their principals or any other people that they come in contact with during their articling term.
- b. With an anonymous survey, such as this one, it is hoped that disclosure of this information is maximized. Students might not feel the same apprehension that accompanies a survey with identifying information.

30. Treatment of Articling Students: Response Data

a. Table 13: Treatment of Articling Students: Distribution

Treatment	Survey 2001		Survey 2000
	#	%	%
Insensitivity, prejudice, discrimination	46	6.3	14.7
Slurs, demeaning remarks	31	4.2	8.3
Favoritism	52	7.1	11.3
Channeling	35	4.8	6.4
No discrimination	415	56.5	45.6
No response	215	29.3	25.0
Totals ¹	794	108.0	111.3

¹ Students could select more than one response

b. Table 14: Treatment of Articling Students: Categorization of Comments

Category	# of Comments
Favouritism or unfair distribution of work	20
Channeling into undesired area of law	9
Prejudicial remarks (ethnic or race related)	24
Rude or demeaning treatment and remarks	32
Sexist remarks and jokes	15
No discrimination	51
Comments not related to the question	15
Total comments ¹	166

¹ The categorized comments do not equal the number of comments received as some comments raised more than one point and were categorized in more than one group.

31. Treatment of Articling Students: Discussion

- a. It is difficult to interpret ‘no responses’ in survey results and to know if the respondents did not want to answer, missed the question, had nothing to say on the topic or did not understand the question. To improve this question’s response rate, the APO will restructure some questions for next year’s survey.
- b. The percentage of respondents reporting incidents of discriminatory incidents decreased by over 50% (Survey 2001 - 14.2%; Survey 2000 - 29.4%).

- c. The response data from the discrimination question was cross-tabulated with the gender question data. Female respondents experienced a disproportionate amount of discriminatory treatment. Three times more female respondents than male respondents chose the following categories: Insensitivity, prejudice, discrimination; Slurs, demeaning remarks; Favoritism. Also, a number of comments related to sexist remarks or behavior.
- d. Treatment during articles was also cross-tabulated with the age question data. Generally, responses in each of the treatment response categories were approximately equally distributed across the various age ranges, except for a disproportionate percentage of insensitivity/prejudice noted by the 'over 40' respondents.
- e. Articling Handbook 2001 includes a revised section entitled "Identifying and Responding to Harassment and Discrimination" prepared by the Law Society's Equity Department. This material is currently being revised for posting on the APO web-site as a stand-alone memorandum, which will also include summer students. Joint efforts of the APO and Equity Department continue to address issues of discrimination and harassment.

VI. Conclusion

- 32. Survey 2001 provides a positive snapshot of the articling experience. 94% of respondents rated the articling experience favorably, indicating that the articling program prepared them "well enough" or "very well" for the practice of law. In Survey 2000, only 80.7% of respondents gave this rating.
- 33. The survey's response rate of 63.7% (Survey 2000 – 18.6%) of students articling in the 2000-2001 articling term and demographic comparisons to the profile of registrants in the BAC support a high degree of validity of the data.
- 34. 70% of respondents (Survey 2000 – 48%) indicated that they had been provided with an education plan. Preliminary review of final evaluations for the articling term 2000 – 2001 indicates that over 90% of students received education plans by the time they completed their final evaluations, suggesting that changes made pursuant to comments received from respondents to the Survey 2000 were effective.
- 35. 64% of respondents (Survey 2000 - 51%) consider that the current evaluation process is adequate, indicating that changes made pursuant to the comments received from respondents to Survey 2000 were effective.
- 36. The majority of students-at-law perceive themselves as receiving practical training (66.4%), in relevant legal skills (63.5%), from a helpful principal (53.1%). 52.8% of respondents rated the broad experience of their articling placements positively.

37. Significant decreases were noted in the percentage of students identifying areas of weakness in their articling placements. 20.8% (Survey 2000 – 29.4%) of respondents were concerned about the amount of routine tasks at their articling placement and 19.3% (Survey 2000 – 28.9%) about their lack of exposure to business.
38. The percentage of respondents reporting incidents of discriminatory incidents decreased by over 50% (Survey 2001 - 14.2%; Survey 2000 - 29.4%), suggesting that efforts by the APO and Equity Initiatives Department to ensure equity in the experiences in articling students have been effective. (Survey 2001 – 56.5% indicated no discrimination and 29.3% did not respond; Survey 2000 – 45.6% indicated no discrimination and 25.0% did not respond.)
39. Significant decreases were noted in the percentage of students identifying areas of weakness in their articling placements. 20.8% (Survey 2000 – 29.4%) of respondents were concerned about the amount of routine tasks at their articling placement and 19.3% (Survey 2000 – 28.9%) about their lack of exposure to business.
40. Non-traditional placements (joint, part-time, international, national, abridged, split) continue to provide valuable options and flexibility for Bar Admission Course students. Approximately 5% of students took advantage of these options in the 2000-2001 articling term.
41. Future surveys will be revised to improve the quality of responses in certain of the questions. In November 2001, the APO participated in a survey design and development seminar to learn to better structure and design surveys and questions.
42. Looking forward, the APO will undertake the following initiatives to address the issues raised by this survey:
 - Review the OISE Report, *Options in the Evaluation of Articling Experiences*, in the context of the professional training of future lawyers,
 - Revise certain aspects of the survey on which this report is based,
 - Continue to revise, create and clarify articling related information for inclusion in the Articling Handbook 2002, APO web-site, other documents, forms and communications, and
 - Continue to work with the Equity Department to identify and address issues of harassment and discrimination.

Appendix 1

2000-2001 Articling Term: Employment Survey

The Articling and Placement Office is interested in collecting data on the quality of the articling experience. The following survey has been developed for this purpose. We ask that each student complete the survey and return it to the Articling and Placement Office with the end of term articling documentation (surveys will be separated upon receipt to maintain student's anonymity).

The Law Society's Admission Committee is committed to ensuring that legal services are provided by and for members of minority groups under-represented in the profession. In addition, the Ontario Human Rights Code prohibits discrimination on the grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, gender, sexual orientation, age, marital status, family status, or handicap. Further, the Law Society's Accommodation policy for the Bar Admission Course reflects the spirit and intent of the Human Rights Code. To support these objectives, the Admissions Committee is interested in gathering statistics on the composition of the Bar Admission Course class.

1. What is your gender?

Male

Female

2. What is your age?

20-25

26-30

31-35

36-40

Over 40

3. Denote any of the following groups of which you consider yourself a member.

Francophone

Aboriginal

Disabled

Mature

Visible Minority

Other _____

Gay/Lesbian

4. In what type of traditional (12 consecutive, full-time months) or 'non-traditional' articling experience did you participate? (You may choose more than one option.)

Traditional

International

Abridged

Joint

National

Split

Part-time

5. Have you seen or been provided with your Education Plan?

Yes

No

6. How would you rate your articling experience as compared to the experience anticipated in the Education Plan?

No Education Plan

Very good/Excellent

Satisfactory

Good

Poor

7. How do you feel articling prepared you for the area of law you intend to practice?

Not at all

Well enough

Not very well

Very well

See over ↗

8. What, if anything, was it about the articling component of the Bar Admission Course that did not prepare you for the area of law you intend to practice? (You may choose more than one option.)

Plan to practice in another area

Not learning business aspects

Too much time on research

Experience not practical enough

Too many routine tasks

Experience not broad enough

Lack of communication with principal

Other _____

9. What aspects of articling did you find most helpful? (You may choose more than one option.)

Good practical training

Principal(s)/supervising lawyer(s) was/were helpful

Learned relevant skills

Broad experience

Other _____

10. Do you think the current articling evaluations (mid-term and final) provide an adequate system for review during the articling experience? (Please comment.)

Yes

No

11. During your articling placement did you experience any of the following? (You may choose more than one option.)

Insensitivity, prejudice or discrimination by staff or other articulated students based on matters not related to competence

Discriminatory or prejudicial slurs and demeaning remarks

Discrimination or favouritism in work assigned by employer

Channelling into area of law that was not of interest

No discrimination

12. If you selected any of the above (in Question 11), please describe your experience.

13. Overall, how would you describe the quality of your articles?

Poor Good Satisfactory Very good/Excellent

★Thank you for completing this questionnaire★

Please return to: **Articling and Placement Office, The Law Society of Upper Canada,
Osgoode Hall, 130 Queen Street West, Toronto, Ontario, M4P 1S9, Fax: (416) 947-3403.**

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APPENDIX 7: BUDGETARY IMPLICATIONS OF PROPOSED APPROACH

APPENDIX 7**BUDGETARY IMPLICATIONS OF THE CHANGES**

	Toronto		
	Original	Proposed	Savings
Registrar	\$ 912,500	\$ 912,500	\$ -
Materials Development	867,800	827,800	40,000
Course Delivery	1,488,900	599,200	889,700
Examinations	371,000	371,000	-
Student Success Centre	487,000	487,000	-
	<u>4,127,200</u>	<u>3,197,500</u>	<u>929,700</u>
	Ottawa - French		
Registrar	\$ -		\$ -
Materials Development			-
Course Delivery	759,400	612,882	146,518
Examinations			-
Student Success Centre			-
	<u>759,400</u>	<u>612,882</u>	<u>146,518</u>
	Ottawa - English		
Registrar	\$ -	\$ -	\$ -

Materials Development			-
Course Delivery	635,900	389,900	246,000
Examinations			-
Student Success Centre			-
	<u>635,900</u>	<u>389,900</u>	<u>246,000</u>
Total	<u>5,522,500</u>	<u>4,200,282</u>	<u>1,322,218</u>