



**Law Society**  
of Ontario

**Barreau**  
de l'Ontario

## **Tab 3**

# **Law Students' Society of Ontario (LSSO) Motions from the 2020 Annual General Meeting**

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## Issue for Consideration and Decision

Convocation is requested to consider the two motions submitted on behalf of the Law Students' Society of Ontario (LSSO) to the 2020 Annual General Meeting, in accordance with s. 42(1)(b) of By-Law 2, and answer the following questions:

1. Should the matter of a Law Student or Licensing Candidate being a permanent member of the Professional Development and Competence Committee or attending the Committee by way of permanent invitation be further considered by the Law Society at this time?
2. Should the matter of candidates in the licensing process being permitted to vote in Benchers Elections be further considered by the Law Society at this time?

### A. Executive Summary

Two motions on behalf of the LSSO were submitted for the Law Society's 2020 Annual General Meeting (AGM) as follows:

Therefore be it resolved:

1. The Law Society appoint a Law Student and/or Licensing Candidate representative, such as a member of the Law Students' Society of Ontario, to the Professional Development and Competence Committee of Convocation pursuant to By-Law 3 subsection 109(3)<sup>1</sup>; or

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<sup>1</sup> Composition

109. (1) Each standing committee shall consist of at least six persons appointed by Convocation.

Benchers

(2) Each standing committee shall include at least five benchers.

Appointment of persons to standing committees

(3) Convocation may appoint persons to a standing committee at any time.



2. The chair of the Professional Development and Competence Committee permanently extend an invitation to a Law Student and/or Licensing Candidate representative, such as a member of the Law Students' Society of Ontario, to attend the meetings of the Professional Development and Competence Committee pursuant to By-Law 3 subsection 115(2)3.<sup>2</sup>

Therefore be it resolved:

The Law Society amend section 16 of By-Law 3 in the following manner:

“16. A licensee whose licence is not suspended on the first Friday in April and a candidate enrolled into the process to be eligible to be issued a Class L1 Licence in accordance with By-Law 4 pursuant to the *Law Society Act* on the first Friday in April ~~is~~ are entitled to vote in an election of benchers.”

The motions in their entirety at **Tab 3.1**. The motions prepared by the LSSO Advisory Board with support from licensees were, according to the LSSO, aimed at enhancing Law Society governance in the public interest through increasing student involvement at the Law Society.

By agreement with the proponents of the motions, the motions were withdrawn for consideration at the AGM based on the Treasurer's advice that the motions would be considered by Convocation as if they had been carried at the AGM, pursuant to s. 42(1)(b) of By-Law 2.<sup>3</sup>

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<sup>2</sup> Right to attend meeting

115. (1) Subject to subsection (2), no person other than a member of a standing committee may attend a meeting of the committee.

Same

(2) The following persons who are not members of a standing committee may attend a meeting of the committee:

1. A bencher who is entitled to vote in Convocation or who may take part in a debate at Convocation.
2. An officer or employee of the Society.
3. Any person not mentioned in paragraph 1 or 2 with the permission of the chair of the committee.

<sup>3</sup> 42. (1) All motions carried at a meeting of members shall be,

(a) communicated to Convocation at its first regular meeting after the meeting of members; and



Following the AGM, the Treasurer referred the two motions to the Priority Planning Committee for review. That review included attendance by representatives of the LSSO at two Priority Planning Committee meetings in the fall of 2020 to discuss the motions and answer questions.

To assist in Convocation's consideration of the motions, the information provided by the LSSO and issues discussed by the Priority Planning Committee based on the motions are included in this report.

## Background

### A. About the LSSO

The LSSO is an advocacy body representing students currently completing undergraduate degrees at Ontario law schools. The LSSO is composed of elected executive members and a council of elected student government leaders from each law school in Ontario. The LSSO Advisory Board is composed of alumni members. The LSSO advised the Law Society that while the student population is diverse and changing, the LSSO is a central representative body. The LSSO is accountable to all law students as the elected governing body, and seeks to represent its diverse constituents by providing a central forum for consultation and feedback.

### B. Review of the LSSO Motions

The Treasurer and the LSSO agreed that the two motions submitted on behalf of the LSSO for the Law Society's 2020 Annual General Meeting (AGM), appearing in their entirety at **Tab 3.1**, would be withdrawn for consideration at the AGM based on the Treasurer's advice that the motions would

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(b) considered by Convocation within six months of the meeting of members.



be considered by Convocation, as noted.<sup>4</sup> The Treasurer then referred the two motions to the Priority Planning Committee for review, and invited representatives of the LSSO to attend at the Priority Planning Committee for a discussion of the motions. The LSSO representations attended two Priority Planning Committee meetings in the fall of 2020 for this purpose and to answer questions about the motions.

At the Treasurer's request, information setting out some factual information related to the matters raised by the LSSO in their motion materials about Law Society requirements for students and licensing candidates appears at **Tab 3.2**.

## The Position of the LSSO

As the motions indicate, the LSSO is asking:

- for a formal, year-over-year relationship by way of membership or engagement at meetings of the Professional Development and Competence Committee, for proactive dialogue on issues that affect Ontario law students in a forum that provides for effective, timely meaningful consultation with law student representatives, and
- that candidates in the Law Society's Licensing Process be permitted to vote in bench elections.

The LSSO representatives at the Priority Planning Committee took the opportunity to suggest other options apart from the motions, including:

- a memorandum of understanding between the LSSO and the Law Society/Professional Development and Competence Committee on a consultation process;
- establishing a law student and licensing candidate working group under that Committee;

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<sup>4</sup> This step was taken as the AGM was required to be held virtually due to COVID-19 pandemic meeting restrictions, and if the motions were presented and debated at the AGM, a large expenditure, well beyond the budgeted amount for the AGM, would have been required to provide the necessary real-time, interactive platform for debate. The Treasurer determined that such an expenditure at that time was not warranted given the budget constraints the Law Society had committed to observing early in the pandemic.



- with respect to engagement in elections or at Convocation, the option to formalize a bencher position for a licensing candidate in Convocation.

The LSSO acknowledged that there has been meaningful engagement and efficient information sharing between it and the Law Society in the past through consultative processes, although they seek proactive involvement in all issues affecting them. To further enhance this relationship, the LSSO believes that student involvement in Law Society decision-making is a matter of good governance, in that decision makers appreciate the experiences of the people who will be affected, and in particular that the people affected feel confident that this is true.

In support of these two requests, the LSSO indicates that:

- Students are an important part of the legal profession, but there are limited forums for students to provide formal input at the Law Society;
- Law students are governed by Law Society Rules;
- Students are unaware of how the Law Society impacts them - this is an opportunity to introduce students to their regulator and improve communication;
- Licensing candidates pay Law Society mandated fees and fall entirely within the Law Society's mandate during their articling terms;
- The full range of activities of licensing candidates fall within the mandate of the Law Society, but they do not have any formal mechanism to raise their perspectives at a critical juncture in their careers;
- Providing candidates with a vote allows them to enter the discourse and be a part of the decision-making process;
- Other Canadian law societies have created positions reserved for student representatives on their committees and have provided that licensing candidates be able to vote:
  - The Law Society of Manitoba reserves a bencher seat for a "Student Bencher" who is elected by licensing candidates and must currently be a licensing candidate. The Student Bencher sits on two committees: the Admission and Education Committee, and the Admission and Education Appeals and Trust Safety Appeals Sub-Committee;
  - The Law Society of Alberta's Lawyer Competence Advisory Committee and Equity, Diversity and Inclusion Advisory Committee both have student representatives who represent student perspectives at committee meetings;
  - The Law Societies of Saskatchewan, Prince Edward Island, and Alberta have seats reserved for new lawyer representatives on their committees or boards. The Law Society of Saskatchewan has a dedicated bencher seat reserved for a New Lawyer Bencher.



## Issues and Concerns Discussed by the Priority Planning Committee

A number of issues and concerns were discussed by the Priority Planning Committee in response to the information from the LSSO and their requests to incorporate law students and licensing candidates in the Law Society's governance structure. They include the following, provided for Convocation's consideration:

- By-law 3 as it relates to committee process permits the Chair of the Professional Development and Competence Committee to allow non-committee members to attend committee meetings: section 115(2)3;
- The LSSO proposals do not include within their scope paralegal students and licensing candidates and the corresponding involvement of the Paralegal Standing Committee, which the LSSO representatives recognized was a valid issue and something for further consideration;
- Related to the above issue, as the Paralegal Standing Committee has a defined composition in the *Law Society Act*, any change to the composition of that Committee would require a legislative amendment;
- While the LSSO explained its governance structure, there was a question about whether the LSSO was truly representative of all law students across Ontario; further, the LSSO as a law student body in Ontario, does not represent articling candidates, students from other Canadian law schools or National Committee on Accreditation candidates;
- The proposals do not address how continuity of representation by the LSSO at a committee level would be managed, given that students would likely rotate in and out of the position on the committee as a result of their tenure at law school. Also, a student's membership in the LSSO ceases when they graduate from law school;
- As Law Society committee meetings are held in the absence of the public (*in camera*) and materials are confidential to the committee, concerns were expressed on how confidentiality of





sensitive information that may not be relevant or appropriate for the LSSO would be protected if the LSSO representative were entitled to be present as a member of the committee<sup>5</sup>;

- With respect to a licensing candidate as a bencher at Convocation, the following issues were raised:
  - the required statutory amendment to permit this addition to Convocation, as the numbers and types of benchers are dictated by the *Law Society Act*;
  - the method of selecting eligible licensing candidates;
  - the method by which they would become a bencher (whether by appointment or otherwise), which would also require statutory amendment;
  - the matter of a licensing candidate's term as a bencher in Convocation, given that their status as a licensing candidate is typically one year.
- A concern was raised about whether formalizing the engagement with this stakeholder group would open the door to requests from others for similar arrangements in committees or at Convocation, and the issues and complexities that might present for Law Society governance;
- On the broad issue of governance, a concern was expressed about including stakeholder and advocacy group representatives as members of committees or having a [TD1] representative licensing candidate as part of Convocation, as committees and Convocation make decisions on the regulation of legal services in the public interest in accordance with the Law Society's mandate.

The overall consensus among Priority Planning Committee members, based on the issues and concerns noted above, was that the requests in the motions should not be considered further. The Priority Planning Committee recognizes that the LSSO fulfills a valuable role in contributing views, opinions and ideas on Law Society matters. That relationship is encouraged and should continue. The LSSO's engagement through consultative and related processes will continue to benefit relevant policy development and decision-making.

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<sup>5</sup> This issue is not the same as, for example, the attendance of representatives of AJEFO, the Equity Advisory Group and the Indigenous Advisory Group at a portion of the Equity and Indigenous Affairs Committee meetings as these representatives are not members of that Committee.

# LAW SOCIETY OF ONTARIO

## NOTICE OF MOTION

NOTICE IS HEREBY GIVEN of the following motion to be made at the Law Society of Ontario Annual General Meeting on August 10, 2020.

### **A Motion to Enhance Law Society Governance in the Public Interest by increasing the Participation of Licensing Candidates in Benchers Elections**

Whereas the Law Society of Ontario is charged under s. 4.2 of the *Law Society Act*, RSO 1990, c L.8 ("*Law Society Act*"), with regulating the provision of legal services in Ontario in the public interest; and

Whereas candidates registered by the Law Society into the process to be eligible to be issued a Class L1 Licence, in accordance with By-Law 4 pursuant to the *Law Society Act* ("Licensing Candidates") are, according to 10.2 of the Licensing Process Policies, "at all times subject to all requirements and obligations set out in this Policy, the *Law Society Act*, the Society's By-Laws, and the *Rules of Professional Conduct*";

Whereas Licensing Candidates provide services to the public, including rendering legal services and are entitled to rights of appearance before various courts and tribunals in Ontario;

Whereas Licensing Candidates are required to pay fees to the Law Society pursuant to section 16(4) of By-Law 4 of the Law Society's By-Laws; and

Whereas other categories of fee payers and persons governed by the Law Society, including paralegals and lawyers, are entitled to elect Benchers in Benchers elections;

Whereas Licensing Candidates are not entitled to elect Benchers and do not have formal representation at the Law Society;

THEREFORE BE IT RESOLVED:

The Law Society amend section 16 of By-Law 3 in the following manner:

"16. A licensee whose licence is not suspended on the first Friday in April and a candidate enrolled into the process to be eligible to be issued a Class L1 Licence in accordance with By-Law 4 pursuant to the *Law Society Act* on the first Friday in April ~~is~~ are entitled to vote in an election of benchers."

July 1, 2020

Heather Donkers  
Dina Awad

*Heather Donkers*

Elsa Ascencio  
Angela Chaisson  
Sarah Quayyum  
Solomon McKenzie  
Shakir Rahim  
Erin Durant  
Jennifer Hand  
Kenya Jade Pinto

# LAW SOCIETY OF ONTARIO

## NOTICE OF MOTION

NOTICE IS HEREBY GIVEN of the following motion to be made at the Law Society of Ontario Annual General Meeting on August 10, 2020.

### **A Motion to Enhance Law Society Governance in the Public Interest by ensuring the Student Voice in the Professional Development and Competence Committee**

Whereas the Law Society of Ontario is charged under s. 4.1(a) of the *Law Society Act*, RSO 1990, c L.8, with the function of ensuring that all persons who practice law in Ontario or provide legal services in Ontario meet standards of learning, professional competence and professional conduct that are appropriate for the legal services they provide; and

Whereas the participation of Law Students, as defined in subsection 1(1) "Ontario Law Student" of By-Law 7.1, in recruitment, licensing and legal-related employment relationships are governed by the Law Society through Rule 6.2-1 of the *Rules of Professional Conduct*, the *Recruitment Procedures*, and By-Law 4 Part II;

Whereas the ability of Law Students to provide legal services pursuant to Rule 6.1.1(b) of the *Rules of Professional Conduct* and By-Law 7.1 Part I through legal clinics and *pro bono* opportunities are governed by the Law Society;

Whereas the Professional Development and Competence Committee of the Law Society is mandated by By-Law 3 subsection 119(a)(ii) to develop policy options on the licensing of persons to practice law in Ontario as barristers and solicitors, including qualifications and other requirements for licensing and the application for licensing;

Whereas the exercise of the Professional Development and Competence Committee's mandate affects policy issues with significant impacts on Law Students including the format of licensing exams and articling student wages;

Whereas the Law Society's 2016 Governance Task Force found "that Law Society governance would be enhanced by appointing non-bencher lawyers and paralegals and non-licensees with particular expertise to Convocation committees, as is already permitted pursuant to Law Society By-Laws";

Whereas By-Law 3 subsection 109(3) permits the appointment of persons to standing committees by convocation at any time;

Whereas By-Law 3 subsection 115(2)(3) permits the chair of a committee to permit any persons who are not a member of the committee to attend a meeting of the committee; and

Whereas the Law Students' Society of Ontario is the elected representative body of all Ontario Law Students in the province.

THEREFORE BE IT RESOLVED:

1. The Law Society appoint a Law Student and/or Licensing Candidate representative, such as a member of the Law Students' Society of Ontario, to the Professional Development and Competence Committee of Convocation pursuant to By-Law 3 subsection 109(3); or
2. The chair of the Professional Development and Competence Committee permanently extend an invitation to a Law Student and/or Licensing Candidate representative, such as a member of the Law Students' Society of Ontario, to attend the meetings of the Professional Development and Competence Committee pursuant to By-Law subsection 115(2)(3).

July 1, 2020

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Kenya Jade Pinto

*Heather Donkers*

## LAW SOCIETY INFORMATION FOR CONSIDERATION OF THE LSSO MOTIONS

Information relating to the Motion for licensing candidates to have a vote in bench elections:

- Licensing Process Policies for lawyers are at the following link:  
<https://lso.ca/becoming-licensed/lawyer-licensing-process/licensing-process-policies>
- **Applicants are registered in the Licensing Process when they complete Parts I and II of the application process:**
  - **Part I** consists of the online entry of information and payment of the non-refundable application fee of \$160.00
  - After completing Part I online, a PDF application file is created, accessed from an online account created for the applicant.
  - **Part II** requires the applicant to file a printed copy of the application along with required documents all of which must be commissioned or notarized (e.g. proof of legal name, proof of education)
  - Once the application is processed and everything is in order, the applicant is registered and considered enrolled in the Licensing Process.
- Pursuant to s. 10.2 of the Licensing Process Policies, registered students are subject to the Policies, the *Law Society Act*, the Law Society's By-Laws and *Rules of Professional Conduct* to the extent these instruments apply to them (see below). One *Rule of Professional Conduct* applies to articling candidates.<sup>1</sup>
- The fee schedule for students registering in the Licensing Process is found at this [link](#). The fee referenced in s. 16(4) of By-Law 4 is the specific fee charged for the experiential training program (articling or LPP). The entire lawyer licensing fee is approximately \$4700 (plus applicable taxes) and is paid according to the following breakdown and timing:

### **Application fee of \$160**

Timing: When a law student (usually in the fall of 3<sup>rd</sup> year), applies to be registered as a candidate for licensure (see second bullet above)

### **Experiential training fee of \$2800**

Timing: Typically invoiced in January of 3<sup>rd</sup> year law school for payment by April, but can be deferred to a later date or paid monthly

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<sup>1</sup> **6.2-3** An articling student shall act in good faith in fulfilling and discharging all the commitments and obligations arising from the articling experience.

**Licensing examination fees (includes study materials) of \$750 x 2 = \$1500**

Timing: Minimum 30 days before scheduled examination date

**Call to the Bar fee of \$165<sup>2</sup>**

Timing: Typically several weeks before the call date

- By-Law 4 applies to articling students (who we refer to as candidates) and provides as follows:

Student

17. (1) A person who has entered into service under articles of clerkship or the law practice program is a student.

Application of Act, etc. to students

(2) The following apply, with necessary modifications, to a student:

1. The following sections of the Act:

- i. Sections 33 to 40.
- ii. Section 45.
- iii. Section 49.3.
- iv. Sections 49.8 to 49.13.
- v. Sections 49.20 to 49.43.

2. Ontario Regulation 167/07, made under the Act.

3. Sections 2 and 3 of By-Law 8 [Reporting and Filing Requirements].

4. Parts I, II, III and VI of By-Law 11 [Regulation of Conduct, Capacity and Professional Competence].

5. The rules of practice and procedure.

- An articling student or a student in a law practice program may provide legal services under the supervision of a lawyer. By-Law 4 provides as follows:

Provision of legal services by student

34. A student may, without a licence, provide legal services in Ontario under the direct supervision of a licensee who holds a Class L1 licence who is approved by the Society while,

- (a) in service under articles of clerkship; or
- (b) completing a work placement in the law practice program.

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<sup>2</sup> This fee has been temporarily reduced due to the COVID-19 situation.

- For law students (during law school), By-Law 7.1 at the link below sets out the duties that law students may perform under the supervision of a lawyer.

<https://lawsocietyontario.azureedge.net/media/iso/media/legacy/pdf/b/by/by-law-7.1-operational-obligations-01-25-18.pdf>

- The process for registration and completion of the licensing process for paralegals is similar with necessary modifications for the requirements for the field placement and paralegal licensing examinations. The link to the Paralegal Licensing Process Policies appears below.

<https://iso.ca/becoming-licensed/paralegal-licensing-process/licensing-process-policies>

**Information relating to the Motion for creation of a student position on an LSO committee:**

- With respect to the treatment of students within LSO requirements for professional conduct, the following is a link to the LSO's *Rules of Professional Conduct*, Chapter 6.

[https://iso.ca/about-iso/legislation-rules/rules-of-professional-conduct/chapter-6#ch6\\_sec2-students](https://iso.ca/about-iso/legislation-rules/rules-of-professional-conduct/chapter-6#ch6_sec2-students)

- The following is a link to LSO By-Law 3, which includes provisions permitting non-bencher members to be appointed to LSO standing committees.

<https://lawsocietyontario.azureedge.net/media/iso/media/about/governance/by-laws/by-law-3.pdf>