



Law Society
of Ontario

Barreau
de l'Ontario

Tab 8

Federation of Law Societies of Canada

Report on the Federation Meetings, October 12 – 15, 2021

November 26, 2021

Federation Council Member:

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Issue

The Federation of Law Societies of Canada (the “Federation”) is the national coordinating body for Canada’s 14 law societies. The Federation engages in a number of national initiatives through various committees and other groups from which reports are received at its Council meetings. The Federation also operates the National Committee on Accreditation (“NCA”), a Standing Committee at the Federation whose primary mandate is to assess the legal education and professional experience of persons whose education and experience were obtained outside of Canadian common law jurisdictions and who wish to be licensed to practice law in Canada.

More information about the Federation can be found on its website at www.flsc.ca/.

Background

The Federation typically meets in person twice a year (spring and fall) to conduct business and other meetings for Council members, presidents and law society management. The fall meeting usually includes a conference on a topic relevant to the legal regulators. Given the continuing effect of the COVID-19 pandemic, the Federation’s October 2021 meetings were held virtually. This included a Council meeting and a three-day (half day each) virtual conference that preceded Council.¹

Information on the Council Meeting

Federation Council member for the Law Society of Ontario, Jacqueline Horvat, attended the Council meeting on October 15, 2021.

The Council dealt with certain decision items, received reports from the Federation’s President and the Federation’s CEO and addressed a range of Federation matters. The following provides a summary of the major reports for decision and information.

Election of Executive Officers

Between meetings of Council, oversight of the Federation is delegated to an Executive Committee consisting of the President, the Vice-President and President-Elect and a second Vice President. Members of the Executive serve for a one year term and are selected on the

¹ The title of the conference was “The Journey to Legal Practice: New Perspectives and Possibilities”. Topics explored included pathways to the legal profession and challenges they present, critical issues for new practitioners, changes in the legal landscape and imagining new possibilities for the journey to legal practice.

basis of a pre-established rotation from all regions of Canada. The immediate Past President also serves on the Executive Committee.

The following were elected as executive officers for the annual term beginning November 15, 2021:

- Nicolas Plourde (Barreau du Quebec), President
- Jill Perry (Nova Scotia), Vice-President and President Elect
- Jacqueline Horvat (Ontario), 2nd Vice-President
- Stephen G. Raby, Q.C (Alberta), Past President
- Nathalie Ghuman, Director, Finance and Administration (Federation Office)

Update on the National Well-Being Study

Launched in November 2020, the National Well-Being Study is a project of the Federation and the Université de Sherbrooke (Dr. Nathalie Cadieux), in collaboration with Canada's law societies and the Canadian Bar Association ("CBA"). The Study is addressing the gap in data on the mental health of legal professionals. With national data, law societies will better understand the issues and can consider recommendations to address these issues that will be evidence-based. The Study includes a national survey on the well-being of Canadian legal professionals (Phase I), and a second optional phase that would explore differences by province and territory through qualitative interviews (Phase II). The Federation's National Well-Being Study Steering Committee is overseeing the project.²

With the assistance of each law society, the Study's questionnaire was launched in late May 2021 and continued through to mid June. The time to complete the survey was extended twice, first to July 30, and then to August 30, 2021. Dr. Cadieux and her research team have begun to analyse the data and will begin drafting the Phase I Report in early 2022. The report should be ready for dissemination to the Federation, law societies and the CBA mid-2022.

Work on Phase II has begun and involves semi-structured interviews with legal professionals in each provincial or territorial jurisdiction. The results will include the jurisdiction-specific quantitative data from Phase I supported by the qualitative data from the interviews in Phase II. Following completion of interviews over the next year, the Phase II Reports will be developed in 2023, and it is anticipated that dissemination of the results and recommendations flowing from the Study will occur in early 2024.

Update on Reconciliation Initiatives

In December 2020, the Federation Council approved the creation of a joint working group of representatives of the Federation and the Council of Canadian Law Deans ("CCLD").³ The mandate of the joint working group is to engage in ongoing information sharing and

² LSO representative: Cara-Marie O'Hagan, Committee member.

³ LSO representative: Dianne Corbiere, working group member

collaboration on the responses of law societies and law schools to the Truth and Reconciliation Commission of Canada (“TRC”) 2015 report.

In its meetings since March 2021, discussions have centred primarily on possible activities to enhance information sharing and collaboration between law societies and law schools. The work includes collecting information on major trends in the responses of law schools and law societies to the TRC report. Members of the joint working group are also exploring initiatives to support Indigenous practitioners and academics through greater awareness and dialogue on key issues.

In September 2021, Council members approved terms of reference for a new Indigenous Advisory Council through an electronic vote. The Council is to be composed predominantly or entirely of Indigenous representatives. It is intended to provide overall guidance on Federation reconciliation initiatives and ensure that the Federation’s work is informed by Indigenous perspectives. It is expected that a recommendation on the membership of the Council will be made later this fall.

Report of the Anti-Money Laundering and Terrorist Financing Working Group⁴

The Working Group continues its work on anti-money laundering rules and educational materials to assist members of the profession in recognizing potential money laundering risks.

A sub-group of the Working Group is nearly finished its assessment of a number of issues following review of the model client identification and verification rules. Work is advancing on the development of online education modules, anticipated to be completed in the spring of 2022. The Joint Federation-Government of Canada Working Group⁵ met on July 14, 2021. Another meeting of the Joint Working Group is expected to be held before the end of 2021.

NCA Assessment Modernization Committee Update⁶

The National Committee on Accreditation (NCA) is responsible for assessing the credentials of internationally trained lawyers and graduates. The Federation is undertaking a comprehensive review of the mandate, structure, policies and activities of the NCA through the NCA Assessment Modernization Committee (the NCA AMC).

⁴ LSO representative: Jim Varro, Co-Chair

⁵ The joint working group is part of a national response to combat money laundering and terrorist financing in Canada and support awareness and effective management of risk in sectors vulnerable to money laundering, including the legal profession. The goal is to ensure that Canada collectively remains effective in the global fight against money laundering and terrorist financing. The joint working group brings government officials and the representatives of the Federation together in a collaborative effort, with a focus on addressing the inherent risks of money laundering and other illicit activity that may arise in the practice of law.

⁶ LSO Representative: Priya Bhatia, Committee member.

Based on its work plan, the NCA AMC undertook a comprehensive analysis of the gaps between NCA candidates and graduates of Canadian law school programs in the law society bar admissions/licensing programs. The next step is creation of an entry to licensing competency profile.

A consultant was selected to develop and validate a competency profile, and through the Competency Development Task Force, a draft of the NCA Competency Profile is being finalized for a consultation phase. The NCA Competency Profile Development Project will culminate in the development of benchmarks identifying the level of competence required at the point of graduation from a Canadian Common Law Degree or granting of a Certificate of Qualification and at entry to practice. The NCA AMC has taken on the role of Advisory Committee for the Project.

The competency profile that will eventually emerge from the Project will also inform the review of the National Requirement (see the report on this matter below). The National Requirement specifies the criteria for Canadian common law programs and incorporates a defined set of competencies to be included in law school curricula. The National Requirement also sets the standards for the NCA. The Federation must complete a full review of the National Requirement in 2022.

National Requirement Review Committee 2021

The Federation Council approved the composition of the National Requirement Review Committee 2021 (“the Committee”), following the Council’s approval in June 2021 of Terms of Reference for the creation of the Committee.

The National Requirement, adopted in 2012 and implemented in 2015, sets the competencies that graduates of Canadian common law programs must have and the learning resources those programs must provide. It applies to graduates of all Canadian common law programs and to assessment by the National Committee on Accreditation (“NCA”) of the qualifications of internationally trained applicants and graduates of Canadian civil law degree programs who wish to be admitted to a law society in a common law jurisdiction. It also applies to applications for the approval of new Canadian common law degree programs.

The National Requirement must be reviewed at least every five years, with the next review due to be completed in 2022. The new Committee undertaking this review includes representatives of Council, the Canadian Common Law Program Approval Committee (“Approval Committee”), the National Committee on Accreditation (“NCA”), the legal academy and senior law society staff.⁷

⁷ The appointees to the Committee are:

- Jacqueline Horvat - Chair (Council member - Law Society of Ontario)
- Erin Kleisinger (Chair, Approval Committee; Council member - Law Society of Saskatchewan)
- Ian Holloway (Member, Approval Committee; Dean - Faculty of Law, University of Calgary)
- Pinder Cheema (Chair, NCA; Council member - Law Society of British Columbia)

Federation Governance Report

Federation CEO Jonathan Herman updated Council on the status of the Federation's Activity Plan, approved in March 2021, including details on the strategic objectives, the strategies to support the work on the objectives, and timeframes within which matters are to be completed and reported. The 2021-2022 Activity Plan presented to Council was updated and annotated to indicate the current status of the tasks set for the Federation in March 2021. A report was also provided on the Federation's overall compliance with its Governance Policies and proposed updates, together with a draft planning calendar for Council into the next year

Report of the Finance and Audit Committee⁸

On the recommendation of the Committee, Council approved the draft audited financial statements of the Federation for the financial year ending June 30, 2021.

With respect to CanLII, CanLII's financial year is the calendar year. Audited financial statements for the year ended December 31, 2020 were received by the Federation (as CanLII's sole member) in September 2021. As the recruitment of CanLII's new President and CEO (now completed) delayed reporting for the 2022 budget, those discussions are now scheduled for the November 2021 Committee meeting and will be reported to the December 2021 Council meeting.

2020-2021 Annual Report of the National Committee on Accreditation (NCA)⁹

As noted earlier, the NCA, a standing committee of the Federation, is responsible for the program for the assessment of the legal training and professional experience of internationally trained lawyers and students and graduates of Canadian civil law programs who wish to enter the bar admission/licensing program in any of the Canadian common law jurisdictions. The Committee provided its annual report to Council describing its activities and initiatives over the past year.

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- Christian Hurley (Member, NCA; Director of Legal Education, Law Society of Newfoundland and Labrador)
 - Priya Bhatia (Executive Director, Professional Development & Competence, Law Society of Ontario)
 - Adam Dodek (Professor, University of Ottawa, Faculty of Common Law)
 - Tracey Lindberg (Professor, University of Victoria, Faculty of Law)
 - Sébastien Lebel-Grenier (Professor, Université de Sherbrooke, Faculté de droit)

⁸ LSO representative: Teresa Donnelly, Committee member

⁹ LSO representative: Ross Earnshaw, Committee member.

2020-2021 Annual Report of the Canadian Common Law Program Approval Committee¹⁰

The Canadian Common Law Program Approval Committee (the “Approval Committee”) determines law school program compliance with the National Requirement¹¹ for the purpose of entry of Canadian common law school graduates to Canadian law society admission or licensing programs. The Approval Committee evaluates both the programs of established Canadian law schools and those of new Canadian law schools. Through its annual report, the Committee updated Council on developments as a result of the Committee’s work over the past year.

CanLII and Lexum Report

Representatives of CanLII and Lexum, including Crystal O'Donnell, Chair of the CanLII Board of Directors and Sarah Sutherland, CanLII new President and CEO, presented an update on CanLII's and Lexum's activities and operations since its last report to Council. The report reflected on CanLII's 20th anniversary this past summer, its successes over the years, its achievements and its positive future.

Consent Agenda Reports for Decision and Information

The Federation Council received a number of information reports and updates on activities from various Federation committees in a consent agenda, including reports from the

- National Committee on Accreditation (NCA)¹²,
- Canadian Common Law Program Approval Committee¹³,
- Public Affairs and Government Relations Committee¹⁴,
- Standing Committee on the Model Code of Professional Conduct¹⁵,
- Standing Committee on the National Discipline Standards¹⁶, and
- Law Societies Access to Legal Services Exchange/National Action Committee on Access to Civil and Family Justice Status Report

Through the consent agenda, Council approved an amendment to the Federation's Governance Policies to include the Indigenous Bar Association as a national stakeholder of the Federation.

¹⁰ LSO representative: Ross Earnshaw, Committee member

¹¹The National Requirement, implemented in 2015, specifies the competencies and skills graduates must have attained and the academic program and learning resources law schools must have in place. Programs are reviewed annually by the Approval Committee.

¹² LSO representative: Ross Earnshaw, Committee member.

¹³ LSO representative: Ross Earnshaw, Committee member

¹⁴ LSO representative: Jacqueline Horvat, Committee member

¹⁵ LSO representatives: Jacqueline Horvat and Cara-Marie O'Hagan, Committee members

¹⁶ LSO representative: Helena Jankovic, Committee member