

History of the Nunavut Statutes Examination (NSE)

- In 2000, the year after the creation of Nunavut and the LSN, the LSN's Membership and Admissions Committee established a three-hour, open-book NSE, divided into two parts – Part A (substantive) and Part B (ethics) – with test takers examined on a list of 30 statutes.
 - The list of statutes was consistently updated since 2000 to reflect legislative amendments.
 - In 2019, the list consisted of 106 statutes and in 2022, it consisted of 66 statutes.
- The first version of the NSE borrowed its form and contents from the Law Society of the Northwest Territories' Statutes Exam, including that it was required for any person seeking to practice law in the territory.
 - Eventually, was only prescribed for students-at-law, in conjunction with a bar admission course.
- As early as 2003, the LSN flagged the need to develop a Nunavut Bar admissions program and issues with the legal framework applicable to students-at-law.

Is the Nunavut Statutes Examination a bar admission examination or a special examination under the *LPA*?

- NSE is considered a “*special examination*”, which is defined in the *LPA* as “an examination at university standards in subjects pertaining to substantive law in force in Nunavut”.
- Not a “*bar admission examination*”, defined in the *LPA* as “an examination in general subjects related to the practice of law, including practice, procedure, ethics and the Acts of Nunavut or the Acts of Canada or both”.
- The final capstone assessment of CPLED PREP satisfies the bar admission examination requirement.

What changes were made to the NSE in 2022?

In 2022, the LSN made significant changes to the NSE, which included changing:

- Part A of the Examination from open-book to closed-book and from short answer to multiple choice;
- the ability for students-at-law to select their preferred date to write the Examination and instead introducing Examination sittings; and
- the language availability of the Examination, which meant a student-at-law was able to write the Examination in one of two language formats: English/Inuktitut and English/French.

For more information on the changes made to the Nunavut Statutes Examination, please see the Nunavut Statutes Examination Information Note for Students-at-Law (March 2022) and Nunavut Statutes Examination Revised Rules and Protocols (May 2022).

Pass Rate and Passing Mark

- The pass mark for Part A was set at 65% (39/60) and for Part B at 70% (7/10), with students having to pass both Part A and Part B of the Examination.
 - Before 2022, passing mark for the Exam was 70%.
- Of the 8 NLP students who wrote the Examination during the May 2022 sitting, 50% passed.

Taskforce Report Recommendations

1. The requirement for students-at-law to write the NSE as part of Nunavut's Bar admission program be immediately abolished.
2. LSN Executive shall issue a written statement to reflect that the requirement in s. 18(2)(b) of the LPA that requires passing a Bar admissions examination is satisfied by a Bar admissions program that includes an evaluation or assessment.
3. On a temporary basis, the LSN shall continue to require Nunavut students-at-law to complete CPLED's PREP course. Recognizing that CPLED has also contributed to creating systemic barriers, the TF recommends that:
 - a. The LSN should work with CPLED to develop more Nunavut-specific content and address accessibility concerns within PREP.
 - b. Establish an "appeal" or review process through the LSN for students who fail CPLED but are successful in their articles to allow the LSN to establish a work plan that may include make-up work with mentors or overseen by a member of the Nunavut Bar to facilitate the student's admission to the Bar without redoing CPLED.

Taskforce Report Recommendations (cont'd)

4. TF recommends establishing an anti-racist Nunavut-specific Bar admission program for students-at-law within two years to replace CPLED's PREP course as the Bar admission course and Bar admission examination for Nunavut within two years. Part of this inquiry will explore whether there should be a different Bar admissions program for students-at-law who completed their legal education outside of the Territory and are seeking admission to the LSN from other jurisdictions, including those applying after completing NCA Accreditation.
5. The LSN shall conduct a survey of all past students-at-law to assess a broad range of issues to inform the future evolution, development, and success of the Bar admissions process in Nunavut and gather information on what the LSN can do to break down barriers for Inuit students entering the legal profession. This survey should address a broad range of topics, including barriers related to financial strain, mental health, and family obligations.
6. LSN shall issue a statement of apology for the harm caused to Inuit, particularly members of the ASLP and NLP, by the Bar admissions process in Nunavut.

Other Taskforce Report Recommendations

- Consider the LPA and Rules requirements for a student to be called to the Bar in Nunavut, as well as the requirements in other jurisdictions, to ensure that Nunavut's requirements support the entrance of qualified students to the Bar while reducing barriers.

LSN President Statement (22 June 2023)

“The Executive welcomes the opportunity to engage in a collaborative and respectful discussion with the membership about our shared goals as members of the legal profession in Nunavut including working together to identify how to make improvements; to support diversity and inclusion; to consider Nunavut’s unique history and culture; and to aim to remove barriers to the admission process in Nunavut all while balancing the standards of practice required in a self-regulating profession. The Executive also wishes to confirm that given the ongoing work to consider and respond to issues identified in the Taskforce Report, the Executive is continuing the waiver of the requirement to complete the Statutes Examination for admission to the Nunavut Bar until the earlier of March 31, 2024, or the completion of the work referenced above.”

TRC Calls to Action #27 and #28

Two of the Truth and Reconciliation Commission of Canada's Calls to Action pertain to the Federation of Law Societies of Canada and law schools: Call to Action #27 and Call to Action #28.

Call to Action #27

"We call upon the Federation of Law Societies of Canada to ensure that lawyers receive appropriate cultural competency training, which includes the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism."

Call to Action #28

"We call upon law schools in Canada to require all law students to take a course in Aboriginal people and the law, which includes the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and antiracism."

TRC Committees

- The Federation of Law Societies of Canada formed a Truth and Reconciliation Commission Calls to Action Advisory Committee, and their guiding principles and recommendations have informed the FLSC on the appropriate response to the TRC.
- Between 2017 and 2019, the LSN Truth and Reconciliation Commission Committee was established to make recommendations to the LSN on a response to the TRC Calls to Action.

FLSC National Requirement Review (26 June 2023)

The Federation of Law Societies of Canada's National Requirement currently requires applicants to bar admissions programs to meet certain competency requirements, three of which are to have demonstrated:

1. the ability to use techniques of legal reasoning and argument, such as case analysis and statutory interpretation, to analyze legal issues;
2. an understanding of the foundations of law, including the process of statutory construction and analysis; and
3. an understanding of the principles of public law in Canada, including the constitutional law of Canada, including federalism and the distribution of legislative powers, the *Charter of Rights and Freedoms*, human rights principles and the rights of Aboriginal peoples of Canada.

The National Requirement is however undergoing a significant review, which has included numerous meetings with Indigenous groups and individuals in spring 2023 in connection with the Truth and Reconciliation Commission's Call to Action #27 and #28.

FLSC National Requirement Review (*cont'd*)

A non-exhaustive list of the proposed changes include:

- referencing "Indigenous legal orders, issues, perspectives, and contexts" in the introduction to substantive knowledge section;
- adding "Indigenous Law and Legal Orders" as a fourth category of substantive legal knowledge;
- referencing the constitutional rights of Aboriginal peoples and Canadian criminal law as it relates to Indigenous peoples in the description of Canadian public law;
- including a clause stating that academic programs must demonstrate integration of Indigenous legal issues and perspectives, where applicable, throughout the curriculum; and
- referencing the ethical duties to Indigenous peoples in the section on ethics and professionalism.

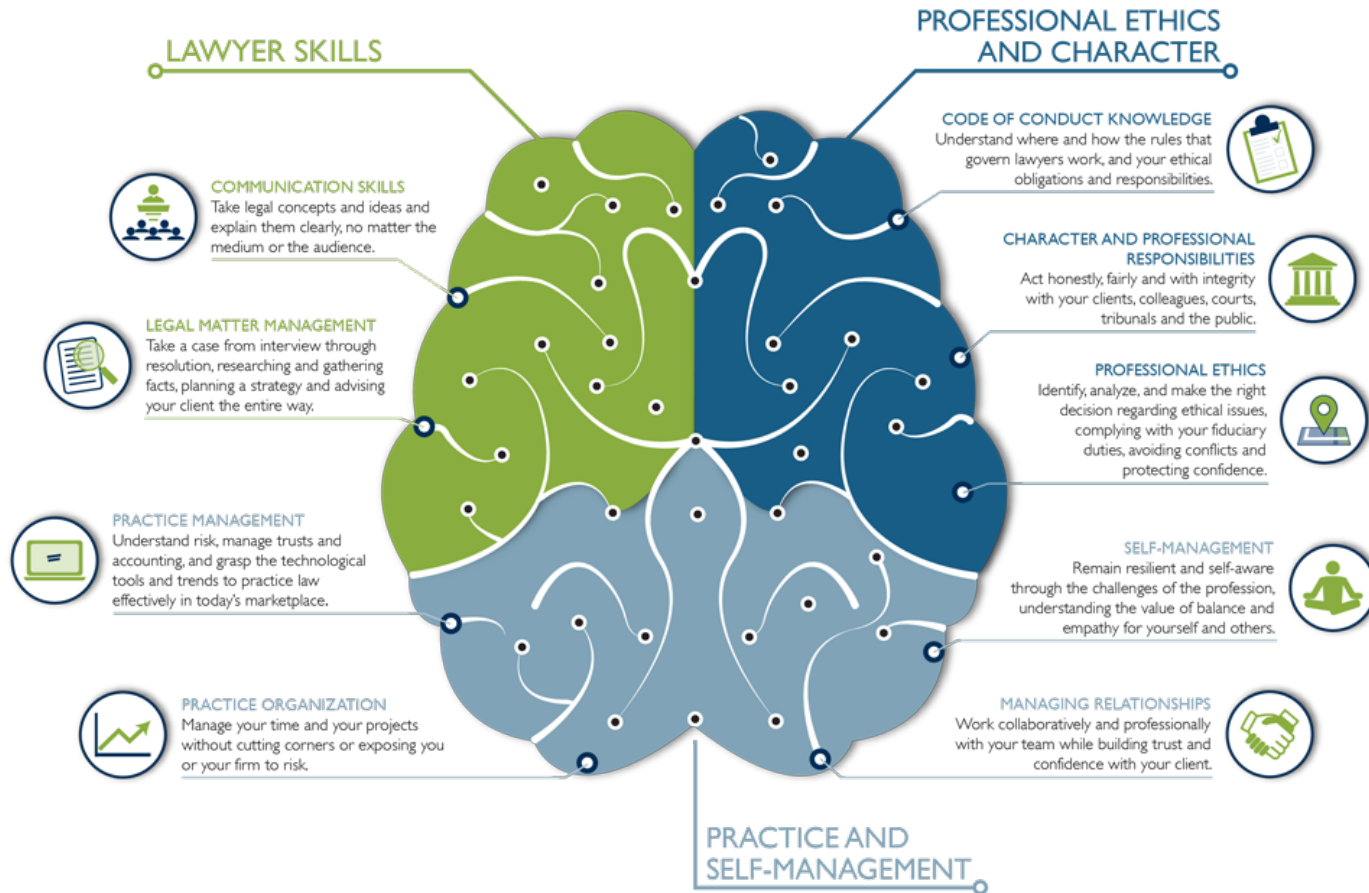
Articling Competencies

At the end of an articling placement, principals are required to report on the student-at-law's performance in each of the following six categories:

1. Professional Responsibility
2. Practice Management
3. Legal Research
4. Legal Writing
5. Legal Analysis and Analytical Skills
6. Trial Litigation and Management

Each of these categories has several competencies which are evaluated on a five-point scale by an articling principal. Students-at-law must get a passing score of 3.0, which indicates that the student-at-law has demonstrated competency for entry-level practice.

THE MIND OF A CPLED-TRAINED LAWYER



Next Steps

- Special Examination Information Letter clarified that the bar admission examination requirement under section 18(2) of the *LPA* is satisfied by CPLED PREP's final capstone assessment and the NSE is considered a special examination under the *LPA*.
- Letters of apology were sent to 12 students-at-law on 10 November 2023.
- Roundtable with students-at-law in early December to give current and former students-at-law an opportunity to meet directly with the LSN, as well as meet with each other.
- A student-at-law survey will be circulated before the end of the month to inform the upcoming special meeting on the NSE in early 2024 and the future work of the Articling and Bar Admissions Committee.
- Special meeting to be held with the membership in early 2024.