



# SPECIAL MEETING

## Draft Minutes

**Date and time:**

Wednesday, February 28, 2024; 6:00 PM ET

**Location:**

Baffin Room at the Frobisher Inn in Iqaluit, NU.

Remote and virtual access was provided through Zoom.

**Attendance:**

**Executive Members, Members, Students-at-Law, and Guests:**

1. Thomas Ahlfors
2. Sarah Arngna'naaq
3. Gillian Bourke
4. Stephanie Boydell
5. Christopher Buchanan
6. Angnakuluk Friesen
7. Michelle Kinney
8. Beth Kotierk
9. Sandra Mackenzie
10. Tejas Madhur
11. Nuka Olsen-Hakongak
12. Jennifer Hunt-Poitras
13. Vigar Quaraishi
14. Michael G. Rafter
15. Merrilee D. Rasmussen
16. Joe (Xiaozhou) Ruan
17. Jessica Shabtai
18. Joanne Smith
19. Craig Stehr
20. Nalini Vaddapalli
21. Debra Woodske
22. Geoffrey Young

**Staff and External Support:**

1. Brent Baker
2. Francois Fortin
3. Rachel Kohut
4. Santana Stallberg
5. Nalini Vaddapalli

**1. Assembly and welcome by Chair – President Joanne Smith**

- BB from Clear Picture provides instructions on voting electronically.
- The Chair, JS, proceeds to the first agenda item.

**2. Procedural Resolutions**

- A. Resolution A to Amend Appendix D of the Rules of the Law Society of Nunavut to Provide for Flexibility to the Executive in Chairing the February 28, 2024, Special Meeting.

The amendment was proposed by JS, the Chair, who believed her participation as a regular member of the meeting would be more effective. This would allow her to answer questions, facilitate discussions, and engage in dialogue without being restricted by her role as Chair.

**Motion proposed for Joe Ruan, Executive Secretary, to take over as Chair (so long as his remote participation is not interrupted). Moved by SB and seconded by JS. Motion carried.**

**(13 yays, no abstentions, no nays)**

Chairing of the Special Meeting is passed to Joe Ruan, who will continue running the meeting as the new Chair.

- B. Resolution B to Amend the Voting Procedure at the February 28, 2024, Special Meeting to Allow for Expeditious Counting of Votes in Hybrid In-Person/ Online Meetings.

The Amendment was brought forth to allow for quicker voting for both remote and in-person participants.

**Moved by SB and seconded by BK. Motion carried.**

**(11 yays, no abstentions, no nays)**

**3. Approval of Agenda.**

- **Motion to adopt the agenda. Moved by SB and seconded by BK. Motion carried.**  
**(17 yays, no abstentions, no nays)**

**4. Presentation**

- Purpose of the Special Meeting:
  - To discuss the Nunavut Statutes Examination (NSE), including what has happened since it was abolished over a year ago, and to discuss and address related issues outside of the AGM.

- To discuss what the Executive has been doing since receiving the NSE Taskforce Report and share high-level survey findings and learnings from the student-at-law roundtables.
  - The NSE Taskforce Report can be accessed [here](#).
  - Note: The Law Society of Nunavut (LSN) plans to release a report describing the survey results in a way that respects respondents' anonymity and makes qualitative data understandable.

**A. Request for Feedback from the Membership: Nunavut Statutes Examination as a Special Examination** (slides 3-6)

- Survey sent out to all members who were not current students-at-law (SaL). It particularly sought feedback from members who had previously acted as articling principals or from those in organisations which regularly employ SaL.
- When answering questions related to demographic data, some respondents identified as Indigenous and/or Inuk. Additionally, no individuals whose first language was Inuktitut or Inuinnaqtun responded to the survey.
- The survey did not have a very high uptake, receiving only nine responses.
- Survey Question: “Do you think the Nunavut bar admission program adequately prepares SaL for practice in the Territory?”
  - Note: the bar admission program included the bar admission course, special examination, and articling process.
  - Four out of nine respondents believed that, with amendments, the bar admissions program could better prepare SaL for practice in the Territory.
  - The Executive’s interpretation of these results is that changes must be made to the bar admissions program and that, with those changes, it could be regarded as a defensible program.

**B. Special Examination (“Nunavut Statutes Examination”)** (slides 7-12)

- The NSE Taskforce Report recommended to immediately abolish the requirement that SaL write the Nunavut Statutes Examination as part of the bar admission program.
  - See “Recommendation #1” on slide 8 of the February 28, 2024 Special Meeting Presentation, available on the [LSN website](#).
- The Report focused on the content of the NSE. Historically, individuals writing the examination have been confused about what topics were covered. The NSE does cover both substantive law (Part A) and ethics and professional responsibility (Part B).
- Summary of changes to the NSE which came into effect in 2022:
  - Transitioned from an open-book to a closed-book format and from short-answer to multiple choice questions.
  - Examination sittings were introduced.
  - Individuals writing the examination could now do so in their preferred language of Inuktitut, English, or French.
- 50% of the SaL who wrote the May 2022 sitting of the NSE passed.

- Survey Question: “What value do you believe the exercise of reviewing and examining the Nunavut-specific statutes provides students-at-law?”
    - Answers to this question were polarised, with an average rating of 5.44 out of 10. Roughly half of the respondents believed it was valuable to SaL, while the other half did not.
- C. Federation of Law Societies of Canada (FLSC) (slides 13-15)**
- i. National Requirement**
    - Under the FLSC National Requirement, applicants to bar admission programs in all Canadian jurisdictions must meet certain competency requirements prior to applying. For example, statutory interpretation is a mandatory requirement which must be met prior to applying to a bar admission program.
    - The FLSC has reviewed and developed a number of recommendations concerning the content of the National Requirement, as well as the process for assessing compliance. One consideration informing this review was the National Requirement’s compliance with the Truth and Reconciliation Commission’s (TRC) Calls to Action 28, urging that law schools require students to take a course on Aboriginal people and the law.
      - See the FLSC National Requirement Review Final Report [here](#).
  - ii. Model Code of Professional Conduct Draft Amendments re: Call to Action #27**
    - The FLSC is currently amending its Model Code of Professional Conduct in response to the TRC’s Call to Action 27, urging the FLSC to ensure lawyers receive appropriate cultural competency training.
      - The FLSC’s Standing Committee on the Model Code sought feedback from a number of entities, extensively engaging with Indigenous individuals, organisations, and advisory committees.
- D. Student-at-Law Experience Survey (slides 16-21)**
- The NSE Taskforce recommended the LSN conduct this survey.
  - 32% of current and former SaL responded to the survey (19 out of 59). The respondents represented a wide range of years of call to the bar after completing bar admission requirements in Nunavut.
    - 9 of 19 respondents are currently practicing, either in Nunavut or elsewhere.
  - Nunavut’s bar admission process has changed considerably in recent years. Previously, the LSN used British Columbia’s (BC) Professional Legal Training Course (PLTC). Now it uses the Canadian Centre for Professional Legal Education’s (CPLED) Practice Readiness Education Program (PREP) as its bar admission course.
    - The survey results captured SaL’s experiences of both the PLTC and PREP.
    - Notably, CPLED has changed since COVID and has a new delivery model.

**i. Barriers to Success** (slides 22-25)

- The survey results have allowed the LSN to identify improvements to be made at various stages of the bar admission program and to look at the program holistically. While the NSE was one of its issues, it was not the only one.
- Survey Question: “Did the student-at-law have to retake a bar admission course, a bar admission examination or a special examination (Nunavut Statutes Examination)?”
  - Half of the respondents indicated they failed at least one of these stages in the bar admission process.
  - After receiving the results, the LSN realised this question was too vague. The question attempted to capture failures at several moments in the bar admission process when, instead, it should have been divided into separate questions for specificity.
  - The Executive would like to learn about the occurrence of failures at specific stages.
- Lack of support was revealed to be one of the main barriers to success in the bar admission process. This was demonstrated in the results to the following survey question: “If you have to retake a bar admission assessment/special examination or redo a bar admission course during your articles of clerkship, what supports were available to you?”
  - Respondents stated that, whether at an employment level, the LSN-level, or a personal-level, they felt they did not receive the support(s) needed to succeed.
  - The lack of support identified is particularly concerning to the Executive as they recognise the importance of support to the well-being of SaL and the bar more generally.
- Survey Question: “Nunavut currently relies on bar admission courses and bar admission examinations from other jurisdictions which are not available in all of the official languages of Nunavut. Did this impact your experience of the course and/or examination?”
  - Results demonstrated that another impediment to SaL’s success is the language barrier, as the bar admission examination is available in French and English, but not Inuktitut or Inuinnaqtun.

**ii. Professionalism & Ethics** (slides 26-27)

**iii. Bar Admission Course & Examination** (slides 28-37)

- CPLED course material was analysed in the survey.

**Q (NV):** For clarification, regarding slide 27 which analyses whether CPLED assisted with developing the competencies for the examinations, the question was: Is the bar graph highlighting the respondents’ level of agreement that the CPLED training assisted in these areas?

**A (President JS):** The LSN is aware and knows that the structure and components of the exam do not necessarily develop the competencies, but there are some positives highlighted in the graph. This is why there is an initiative to address the gaps.

**Q (SB):** In regard to CPLED, has there been any involvement in consultations from members of the bar in Nunavut? Is there room for members of the bar in Nunavut to be involved in advising the grading scheme? In some instances, SaL are docked points for speaking slowly due to the language barrier. Can the marking scheme be addressed if CPLED is kept as the tool for bar admissions?

**A (President JS):** The LSN is looking into this currently, including the inconsistencies of grading and we are pushing for a more consistent grading scheme and/or defensible exemption when it comes to the examinations. It is a great idea for members of the bar to give mentorship/ advice regarding the grading scheme.

**ACTION ITEM:** Develop discussion topics for a meeting with the CEO of CPLED on how to better tailor the exam to Nunavut, including incorporating Nunavut bar members' advice on the grading scheme to ensure SaL success.

**Q (JS):** In terms of the last slide, is this looking at CPLED, CPLED Prep, or both?

**A (President JS):** It took into consideration both courses, even though we know the competencies have changed, we reflected this as best as possible within the listed competencies.

**Discussion items from survey:**

- Results indicated that CPLED posed scheduling issues for SaL where, in order to complete the course, individuals had to sacrifice articling positions and/or opportunities to be in court.

**iv. Articles of Clerkship & Workplace Training (slides 38-42)**

- Although the CPLED has issues, respondents indicated it did not deter their interest to article in Nunavut.

**v. Student-at-Law Mental Wellbeing (slides 43-47)**

- Respondents identified that, over the course of the bar admission process, they were unaware and/or unable to get help when they needed it.
- The LSN has noted that this is a gap and is making efforts to get SaL help when they need it and to be proactive in advertising resources for assistance.

**vi. Harassment & Discrimination (slides 48-57)**

- Respondents identified they were unaware of how to report and receive assistance for harassment and discrimination while articling.
- The LSN is getting involved to identify barriers to reporting and support members who are launching complaints.

**vii. Looking Ahead** (slides 58-61)

- The LSN has decided to abolish the NSE as they cannot continue to administer the examination in its current state.
- The LSN is looking to develop or administer a special examination which would take into consideration all the data and recommendations from the special meetings and committees.
- Currently, CPLED is the system that will be used for now. There is a scheduled meeting with the CEO of CPLED to address issues brought up at this meeting and in the survey.

**Comment (MGR):** Rote memorisation of statutes does not lead to, develop, nor enhance statute interpretation skills.

**Q (SB):** Not to bind you or the Executive to any process, but in terms of a goal to have SaL called to the bar by July, and utilising the principle that some requirements can be waived in circumstances where evidence can demonstrate ability and competency, is the Executive open to taking into account the evidence and support that indicates the requirements/ competencies have been fulfilled by SaL in lieu of passing the exam?

**A (President JS):** We agree there is broad discretion, and we are looking to develop a defensible process that can be used to provide consideration of competencies and requirements. Another aspect we are looking at is taking a more holistic approach and looking at the entirety of a SaL's current and previous examinations/ CLPED's Capstone in order to assess competencies. Passing an examination does not accurately reflect a competent lawyer and this is why we are working on a defensible exemption process.

**ACTION ITEM:** Request results of SaL's CPLED assessment (Capstone) in order to address the competency of the SaL through a holistic approach.

**Q (TA):** Is the end goal to have the CPLED focus on Nunavut and federal laws only? Currently, there are many requirements to understand and be tested on federal laws and those of other jurisdictions.

**A (President JS):** The goal is to have the CPLED / bar admission only focus on Nunavut and federal laws. Currently, we have two options: to utilise and amend the CPLED program or to build our own bar admission program. The latter is costly, especially since we occasionally only have one SaL who needs to take it. We need to assess whether developing our own program is financially feasible.

**Q (JS):** Is there an opportunity to partner and form a northern course for the Yukon, Northwest Territories (NWT), and Nunavut?

**A (President JS):** We have talked briefly with the Yukon and NWT about courses to learn how they are doing it. Currently, they are using BC's PLTC training and CPLED, respectively, as well as

their own statutes examinations. There may be potential to approach this as a partnership without necessarily being dependent.

**Q (BK):** I really like this idea of partnering with the NWT, as I have conducted research relevant to the NWT and there are similarities in life experiences. Alternatively, we could build off the structure of their bar program and tailor it to Nunavut legislation, instead of reinventing the wheel. I recently learned the bar examination did not exist before African Americans started to go to law school and it was an additional barrier for people of colour. An anti-racist approach to bar examinations is needed. We need to think about what we want the bar examination process to be used for; To determine the core essentials and preserve these as the purpose.

**A (President JS):** We appreciate the comments, and this is what the Taskforce is looking for. We will need to keep all of this in mind regarding the bar, feedback, and experience with the laws in Nunavut. The NWT would be the best partner, financially, due to the similar laws.

**Q (TA):** I draft a lot of legislation and the NWT is more active in repealing and replacing various legislation and making changes, so we need to be careful when thinking about partnering. There are many divergences that are being created between Nunavut and the NWT and we need to proceed with caution. The goal is to have Inuit-specific laws for Nunavut.

**A (President JS):** I think it's important to remember there is a reason for separation. As mentioned, updates have occurred. While I think there's potential for a shared program due to the financial costs, we must still ensure we have Nunavut-specific content.

**Q (SA):** I completed the CPLED through Alberta and there are many differences in the requirements of the examination. The NWT examination is open-book. Has the LSN discussed how CPLED is administered in other provinces and territories? Law schools are changing how they administer examinations as well. The examination should be representative of how law schools are transitioning across Canada. Also, MGR in the chat mentioned that rote memorisation of statutes does not lead to, develop, nor enhance statute interpretation skills.

**Comment (MGR):** The examination should be open-book.

**A (President JS):** I 100% agree, memorisation does not equate to a competent lawyer. The examination needs to be open-book and an application of the rules of the statutes instead of a regurgitation. The program needs to provide guidance to SaL on the application of the law.

**ACTION ITEM:** Review and address the variation in examinations across jurisdictions and the need for consistency in CPLED.

**Q (JHP):** I agree with the comments made about the NWT. Nunavut is separated and there are distinct differences in cultures and experiences of the population. The program needs to be more than just learning the law; It also needs to address the population and cultural competency that is required to practice law in Nunavut. There needs to be conversations with the people being



served in Nunavut about what makes a competent lawyer in order to adequately support these individuals. People don't understand they have certain rights regarding interpreters. The process isn't serving people fairly, and as such we need to look at the competences of lawyers in this unique jurisdiction. There are some similarities in the populations of the NWT and Nunavut, but Nunavut has many differences and distinct needs that should be considered in the program. We have a commitment to developing a bar program that addresses cultural competencies.

**A (President JS):** Right, other jurisdictions don't understand the cultural competencies required to practice in Nunavut nor the experiences of the population here. I'm not sure what other territories' appetite is for changing the statutes examination and bar changes. Further discussion is needed regarding the bar and competency requirements. We want to ensure we are not rushing this but we also must ensure SaL are not going through the situation currently presented by the CPLED program.

**Q (TA):** Looking at the history and current reality, to this day the LSN is the only independent regulator of a profession within Nunavut and has been since 1999. There's a reason for this. We need to develop a program that is Nunavut-specific, whether that is with CPLED or through our own program. The program needs to serve Nunavut's population and protect the population. Cultural competency is pivotal. The difficulty is how to design something that is appropriate for people who understand the cultural experiences and uniqueness of Nunavut as well as for those who come from elsewhere and do not have these understandings.

**A (President JS):** I think the suggestion isn't to adopt the NWT's process, but rather to utilise cost savings by working with the NWT. Regardless, we will need to adapt the bar admission program to effectively ensure the protection of vulnerable people of this territory. This is one of the reasons that the LSN collaborates with Nunavut organisations to identify the cultural competencies required for working in Nunavut.

**Q (BK):** I want to clarify that I don't think a joint northern CPLED was on the table initially but instead a cost-saving program. I want to reiterate that it is important to utilise the legal and legislative history of Nunavut to understand legislation. The NWT has created more legislation at a faster pace but that should be a simple enough concept for us to understand. I think we should be developing our own CPLED. I do not think it needs to have an examination. I enjoyed the practical aspects of the course, and I think this is the way to go to ensure the bar is providing value. I like that there is a discussion with Nunavut organisations about what makes a competent lawyer in Nunavut. There are still instances of colonialisation in the Nunavut Government and maybe having our own course will help push for change in the government.

**A (President JS):** Thank you BK for the last comment which ties into the FLSC trying to get the legislative history included in the competencies. Often, that change starts with the bar acknowledging the need for change.

**Q (GB):** I hear JHP and TA's comments and my concern is for SaL coming from the law schools without Indigenous law programs. The CPLED course has no statutory component and maybe we

should consider having an undertaking signed by SaL about the Nunavut-specific competencies and statutes rather than an exam.

**A (President JS):** That is an interesting idea and is not something that was previously thought about. Maybe we need to add an undertaking when signing the declaration. Right now, we are relying on SaL taking the CPLED.

**ACTION ITEM:** Discuss adding an undertaking of the Nunavut Statutes with the Executive.

**Q (Unidentified Speaker):** How do we ensure lawyers coming from other jurisdictions are culturally competent? Can they do an exam?

**A (President JS):** Due to the Territorial Mobility Agreement, we cannot require lawyers transferring from another jurisdiction to do an exam. However, there is a CPD requirement to do one hour of competency training. At the Executive-level, we are looking at training opportunities or consecutive learning to address the issue of the competency of SaL and lawyers coming from different jurisdictions.

**Q (Unidentified Speaker):** Can we not do the same as Quebec does with their examination for civil law?

**A (President JS):** Quebec is different as they are carved out from the agreement and, since we are not, we cannot label it as an examination due to the mobility law.

RK linked the Territorial Mobility Agreement in the chat.

**Q (JHP):** I have significant concerns about the CPLED course itself. Specifically, about the tone of the course as it is not anti-oppressive or anti-racist and has issues with how Indigenous peoples are represented. I am not convinced that, after going through this program, there is an appetite for change to make it applicable and appropriate for the Nunavut program.

**A (President JS):** I agree with comments about CPLED; its tone is not appropriate and is not what the Taskforce has in mind. We are trying to go back to 2019, when resources were available to teach it in Nunavut with cultural competency. Our hope is that returning to a model like that will get rid of some of the concerning undertones. We need to address the problems and how its marked is a clear issue. So, we do need to require clear marking rubrics with members of the bar assisting with marking, even if this means seeking outside guidance on communication skills.

**Q (JHP):** The material itself has issues; it doesn't teach cultural acceptance.

**A (NV):** The older version allowed LSN members to give feedback and provide advice. We need to have a defensible structure and after we can adopt changes appropriate to Nunavut.

**Q (BK):** Why did they stop that?

**A (President JS):** COVID brought the course online and upper-level changes in CPLED and the CEO changes made it so partners/the LSN could not provide advice. It was an overall structure change incorporating all the jurisdictions.

**Q (SB):** I just want to clarify that CPLED was changed prior to COVID due to the CEO changes. CPLED changed and the LSN signed off and brought it in. I agree the content is highly problematic and it is a learning curve for our jurisdiction.

**A (NV):** So, there were originally discussions about having an in-person bar admission course which fell through because of COVID. Our original version of CPLED, which started in 2014 with direct support from the Law Society of Manitoba, had 75% of the course delivered in-person. That option was no longer possible when CPLED's governing structure changed with a new CEO's office in Alberta. However, there is still interest in Nunavut to have a blended approach, with some components delivered in-person and some online. The LSN must consider how it can achieve this.

**Q (Unidentified Speaker):** I think there is consensus that the current version of CPLED is harmful and there are SaL actively doing CPLED. What do we do for those SaL who are currently doing Capstone?

**A (President JS):** The best solution, and I'm not sure if it's perfect, is to have a discussion with CPLED's CEO to offer remedial work. It's unfortunate that it won't be until after some of the CPLED Capstones have occurred. Exemptions are the only other option right now to challenge the CPLED. I think it's possible to get in a version of own program next year, as we do not want SaL to suffer.

**A (NV):** There are already seeds that have been planted with CPLED about coming to a defensible proposal for the current cohort. There is a follow-up conversation in March.

**Q (JS):** Do we have access to previous versions of CPLED delivered by Nunavut lawyers? For SaL in the program now, in the interim, can we revert to the old materials with some updates and have the Nunavut cohort do those examinations? Is that something we can do? A year is a long time and revamping CPLED is quite an undertaking.

**A (President JS):** NV knows best about accessing the previous work. One of the other suggestions was to look at the results from the SaL Experience Survey and then create a defensible exemption. There are some concerns about who will step up and undertake creating the defensible exemption, or how it will be done. This is one of the issues we are going to raise with CPLED.

**Q (JS):** I am incredibly impressed with the initiatives that have been undertaken by LSN Executive. The comments aren't based in criticism, just in worry for the current SaL.

**A (President JS):** The survey and the completion of the survey by the SaL was extremely helpful. We struggled with what to do in the next three weeks for Capstone and the NSE. We are fairly optimistic that the meeting with the CEO of CPLED will go well. If senior members of the bar are interested in working with SaL, this would be helpful as well. We often go to the same members to ask for assistance.

**Q (TA):** I think CPLED has made some improvements as they have added a bit more content regarding cultural competency. However, we must also ensure that CPLED is a culturally appropriate program, which may be a hard sell with the CEO.

**A (President JS):** I agree, it's a root systemic cause of the CPLED program. But we are going in with open minds and identifying that a problem exists and assisting with the change. For instance, there has been a change to the examination; there is no longer a personal reflection section. We are curious to see how the changes made will impact SaL. We do believe CPLED is making changes to have SaL succeed.

**A (NV):** I just want to add that the LSN must come up with a proposal for CPLED in order to create a defensible proposal that meets the National Requirements, while incorporating a blended and holistic approach. We do not want people to say SaL in Nunavut were given a different type of examination. However, we do want our program to be appropriate for Nunavut and develop Nunavut-relevant competencies.

**A (President JS):** We are trying to go forward and make it defensible for all SaL and not just specific SaL who came through a specific program.

**Comment (MDR):** I have always wondered how a statute examination actually tests anything that is an essential addition to the three years of law school already completed and the year of articling.

**5. Other business – Chair JR**

- No other business.

**6. Adjournment – Chair JR**

**Motion to adjourn the Special Meeting at 7:37pm ET. Moved by President JS and seconded by BK. Motion Carried.**