

Trinity Western University
Application for consent to offer a Juris Doctor

Proposal submitted by TWU	June 18, 2012
Revisions requested by the Ministry	June 25, 2012
Revised proposal submitted by TWU	June 29, 2012
End of 30-day peer/public comment period	August 2, 2012
Minister's decision to refer the proposal to the DQAB	December 18, 2012
Additional program information required for external review submitted by TWU	January 9, 2013
DQAB meeting to determine external review panel	January 14, 2013
Site visit of DQAB's 5-person expert review panel to TWU	March 26, 2013
Expert panel report sent to TWU for response	April 18, 2013
TWU submitted a response to the report	May 17, 2013
DQAB meeting and recommendation to the Minister	June 10, 2013
Decision to hold pending the Federation of Law Societies of Canada's approval	July 30, 2013
Federation of Law Societies of Canada granted preliminary approval to the proposed program	December 16, 2013
Minister granted consent	December 17, 2013
The Law Society of BC invited input from members on whether the TWU faculty of law should be approved	January 24, 2014
Replacement of the <i>Special Terms and Conditions of Consent</i> sent to TWU	February 21, 2014
Meeting of the Law Society of BC – Benchers approved the law school-	April 11, 2014
The Members of the Law Society of BC voted to pass a resolution to declare that TWU's law school is not an approved faculty of law. The vote was 3,210 in favour and 968 opposed.	June 10, 2014
Minister's letter to TWU regarding the reporting requirements under the <i>Special Terms and Conditions of Consent</i>	July 11, 2014
The Law Society of BC will again discuss and vote on motions regarding the proposed faculty of law at TWU and are accepting submissions.	September 26, 2014

Culleton, Anita Y AVED:EX

From: Rogers, Dorothy AVED:EX
Sent: Monday, December 29, 2014 2:11 PM
To: Culleton, Anita Y AVED:EX
Subject: FW: Minister's Nov 17th letter to TWU
Attachments: MAV Ltr to TWU - Nov 17 2014.pdf

From: Rogers, Dorothy AVED:EX
Sent: Wednesday, November 19, 2014 10:04 AM
To: McGaghey Jones, Stacey GCPE:EX
Cc: Shaw, Mary A AVED:EX
Subject: Minister's Nov 17th letter to TWU

Hi Stacy,

Mary asked me to send a copy of the letter to you.

Thanks,

Dorothy

* * * * *

Dorothy Rogers
Director, Quality Assurance
Governance and Quality Assurance Branch
Ministry of Advanced Education
250-387-6298
Cell s.17

November 17, 2014

Mr. Robert Kuhn, President
Trinity Western University
7600 Glover Rd
Langley BC V2Y 1Y1

Dear Mr. Kuhn:

I write in response to your letter of October 31, 2014 advising that Trinity Western University ("TWU") intends to bring a legal challenge to the decision of the Benchers of the Law Society of British Columbia that the proposed law faculty at TWU is not an approved program for the purpose of admission to the bar in British Columbia.

I am aware that TWU has also brought legal challenges to the decisions of the Law Society of Upper Canada (Ontario) and the Law Society of Nova Scotia not to approve the proposed law faculty at TWU.

In my letter to you of July 11, 2014, I advised that I may reconsider my consent to the proposed law program at TWU under the *Degree Authorization Act* if the initial decision of the Benchers of the Law Society of British Columbia approving the program was reversed.

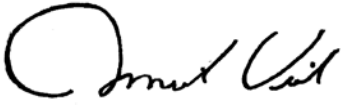
In the circumstances, it seems unlikely that there will be a final determination by the courts with respect to the decisions by the various law societies, including the Law Society of British Columbia, not to approve the proposed law faculty at TWU before my conditional consent will expire. As you are aware under the terms and conditions of consent TWU must enroll students within three years from the date of consent. As a result, I am considering revoking my consent for TWU's proposed law program.

In advance of making that decision, I will accept written submissions from TWU in relation to whether the likely expiry of my consent before the resolution of the impending challenge to the Law Society of British Columbia's decision should cause me to revoke or change my consent for the proposed program. If I decide to revoke my consent after considering TWU's submissions, TWU would, of course, be welcome to resubmit a further application in the future, when the legal issues have been determined.

.../2

I would ask that you please provide your submissions to me in this regard by close of business on November 28, 2014.

Sincerely,

A handwritten signature in black ink, appearing to read 'Amrik Virk', with a large, stylized initial 'A'.

Amrik Virk
Minister

pc: Sandra Carroll
Deputy Minister
Ministry of Advanced Education

Kurt Sandstrom
Assistant Deputy Attorney General
Ministry of Justice

Culleton, Anita Y AVED:EX

From: Minister, AVED AVED:EX
Sent: Thursday, November 27, 2014 11:28 AM
To: AVED MCRU Incoming Corresp Working Box AVED:EX
Subject: Cliff 98545 - FOR RESPONSE: Trinity Western University's Proposed Law School
Attachments: CoverLetter_DocumentPackage.pdf

Categories: Minister

Please prepare response for ADM sign-off as follows:

Branch: Gov & QA
Issue: TWU

Please copy the Minister and the Premier on our response. Thanks

Judy Johnstone
Manager, Business Services & Ministerial Correspondence
and Research Unit
Office of the Deputy Minister
Ministry of Advanced Education
Telephone: 250 356-6284
Fax: 250 356-5468

This message may contain information that is privileged and confidential. If you have received this message in error, please notify me immediately and delete the original transmission without making a copy.

From: CBABC President [<mailto:President@CBABC.org>]
Sent: Wednesday, November 26, 2014 1:19 PM
To: Minister, AVED AVED:EX
Cc: OfficeofthePremier, Office PREM:EX; Corrigan.MLA, Kathy LASS:EX; jlindsay@lindsayllp.ca; kgill@hart-legal.com
Subject: Trinity Western University's Proposed Law School

November 26, 2014

The Honourable Amrik Virk
Minister of Advanced Education
Room 133, Parliament Building
Victoria, BC V8V 1X4

Dear Minister Virk:

Re: Trinity Western University's ("TWU") Proposed Law School

Enclosed for your consideration, is a submission to your Ministry from the Sexual Orientation and Gender Identity Conference (SOGIC) of the Canadian Bar Association (CBA) National Office and BC Branch with respect to the approval of proposed TWU's law school.

I also submit to you the following documents as background material:

- Letter (dated March 2013) from past National CBA President Robert Brun, QC to the President of the Federation of Law Societies of Canada
- Statement (dated December 2013) from past National CBA President Fred Headon
- CBA National Resolution (passed February 2014) Non-Discrimination in Legal Education

We look forward to hearing the results of your review of the provincial government's earlier decision on TWU's proposed law school.

Yours truly,

Alex Shorten
President
CBABC

Encl.

Hard copy sent via courier

c. The Honourable Christy Clark, Premier
Kathy Corrigan, MLA, Opposition Advanced Education Critic
Jan Lindsay, QC, President, Law Society of British Columbia
Krystle Gill, Chair, Equality & Diversity Committee, CBABC



THE CANADIAN
BAR ASSOCIATION
British Columbia Branch

November 26, 2014

The Honourable Amrik Virk
Minister of Advanced Education
Room 133, Parliament Building
Victoria, BC V8V 1X4

Dear Minister Virk:

Re: Trinity Western University's ("TWU") Proposed Law School

Enclosed for your consideration, is a submission to your Ministry from the Sexual Orientation and Gender Identity Conference (SOGIC) of the Canadian Bar Association (CBA) National Office and BC Branch with respect to the approval of proposed TWU's law school.

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- c. The Honourable Christy Clark, Premier
Kathy Corrigan, MLA, Opposition Advanced Education Critic
Jan Lindsay, QC, President, Law Society of British Columbia
Krystle Gill, Chair, Equality & Diversity Committee, CBABC



November 26, 2014

The Honourable Amrik Virk
Minister of Advanced Education
Room 133, Parliament Buildings
Victoria, BC V8V 1X4

Dear Minister Virk:

We write on behalf of the members of the Sexual Orientation and Gender Identity Conference ("SOGIC") of the Canadian Bar Association ("CBA"), and the Canadian Bar Association, British Columbia Branch ("CBABC"). We are pleased that after a recent referendum, the Law Society of British Columbia revoked its earlier decision to approve Trinity Western University's ("TWU") proposed law school. The outcome of that referendum spoke clearly and loudly against TWU's proposed law school.

We are also pleased to hear that the provincial government is now considering revoking its consent to TWU's proposed law school. We write to express our support and to encourage the provincial government to revoke its consent.

One of SOGIC's key goals is to address the needs and concerns of lesbian, gay, bisexual, transgender and two-spirit CBABC members. The CBABC represents approximately 6,700 jurists, including lawyers, retired judges, law scholars and students in British Columbia. The CBABC is a branch of the national Canadian Bar Association, which also has a mandate that includes seeking improvements in the law and the administration of justice, and promoting equality in the law and in the legal profession.

SOGIC welcomes the government's reconsideration of its decision based on recent developments. Specifically, SOGIC encourages you to use your authority to revoke your consent on the basis that TWU has failed to obtain regulatory approval in British Columbia and other Canadian provinces.

As mentioned above, on October 31, 2014, the Benchers of the Law Society of British Columbia ("LSBC") voted not to approve TWU's proposed law school for the purpose of the LSBC's admission program.¹ Were there graduates today from a TWU law school, they would be ineligible to practice law in British Columbia. This is a significant development. The Benchers' decision was made after due consideration of the outcome of a referendum of LSBC members in October (the "Referendum") as well as other factors. The result of the Referendum was 5,951 (74 per cent) in favour of rejecting approval of the program at TWU, contrasted with 2,088 against, out of 8,039 valid ballots (or approximately 59 percent of the 13,530 LSBC members eligible to vote).

¹ Law Society of British Columbia, October 31, 2014, News Release, available online: <http://www.lawsociety.bc.ca/page.cfm?cid=3997&t=Proposed-TWU-law-school-not-approved-for-Law-Society's-admission-program>.

The large number of eligible members voting not to approve TWU's proposed law school was in our view likely driven by a respect for the principle that all people should have equal access to legal education, just as all people should have equal recourse to the law, a core value that SOGIC emphasizes. This value is also embodied in the CBA's Non-Discrimination in Legal Education Resolution, attached as an appendix to this letter, adopted overwhelmingly in February 2014. By adopting that resolution, the National Council of the Canadian Bar Association took a principled stance calling for legal institutions free from discrimination and equal opportunity in accessing legal education, whether as an applicant, a student, or faculty and staff.²

The LSBC decision to revoke regulatory approval follows earlier rejections of TWU's proposed law school, by the Law Society of Upper Canada and the Nova Scotia Barrister's Society.³ The Law Society of the Northwest Territories has subsequently denied approval.⁴ The Law Society of New Brunswick is currently revisiting its earlier approval.⁵

All of these developments have contributed to an emerging consensus amongst provincial and territorial regulators of the legal profession that approval of TWU's proposed law school should be denied. Here in British Columbia, as demonstrated by the Referendum, the large majority of lawyers do not support TWU's law school as it is currently proposed. This overwhelming lack of support from within the profession for TWU's proposed law school should be of concern to the government.

Whether TWU's proposed law school ultimately attains regulatory approval is a question to be determined by the courts. As you know, TWU has filed legal challenges for judicial review of the Ontario and Nova Scotia disapprovals, and appears poised to do the same in British Columbia.⁶ Central to these legal challenges will be the question of the appropriate consideration of *Charter* values,⁷ namely equality rights and the freedom of religion.

² Resolution 14-04-M- Non-Discrimination in Legal Education, available online: <<http://www.cba.org/CBA/resolutions/pdf/14-04-M.pdf>>

³ Law Society of Upper Canada, *Trinity Western University (TWU) Accreditation*, available online: <<http://www.lsuc.on.ca/twu/>>. Nova Scotia Barristers' Society, *Council votes for Option C in Trinity Western University law school decision*, available online: <<http://nsbs.org/news/2014/04/council-votes-option-c-trinity-western-university-law-school-decision>>.

⁴ Law Society of the Northwest Territories, *President's Statement Regarding Vote on TWU Law School*, available online: <<http://www.lawsociety.nt.ca/society/twu/>>.

⁵ Law Society of New Brunswick, *Law Society Deals With TWU Issue*, available online: <http://lawsociety-barreau.nb.ca/uploads/SGM_PR.pdf>.

⁶ CBC, October 31, 2014, *Trinity Western law school future in doubt after B.C. Law Society rejection*, available online at <<http://www.cbc.ca/news/canada/british-columbia/trinity-western-law-school-future-in-doubt-after-b-c-law-society-rejection-1.2819684>>

⁷ The reasonableness of the decision of the provincial or territorial legal regulators will depend on their due consideration of the values underlying the Canadian *Charter of Rights and Freedoms*, in accordance with the decision in *Doré v Barreau du Québec* 2012 SCC 12.

Given the multitude of litigation across Canada in relation to TWU's proposed law school, SOGIC respectfully submits that the foundation upon which you originally approved TWU's proposed law school – the recommendation of the Federation of Law Societies of Canada ("FLSC") – has been seriously called into question. Several Provinces have now determined that they do not agree with the recommendation of the FLSC to approve TWU's proposed law school. Adding to these concerns are outstanding questions as to whether TWU's proposed law school is in violation of the university's enabling statute, the *Trinity Western University Act*, S.B.C. 1969, c. 44.

As the situation currently stands, a final judicial determination on the regulatory status of TWU's proposed law school will not be available until after the three year window set by your Ministry for TWU to meet the your conditions. It therefore follows that the approval of TWU's proposed law school should be reversed until the legality of the program and its regulatory status are determined with legal certainty.

For all of the above reasons, SOGIC:

- a) welcomes the your reconsideration of your initial decision to approve proposed law school; and
- b) encourages you to reverse your decision and revoke your consent to TWU's law school.

Only once the government has the benefit of a final judicial determination on the regulatory status of TWU's proposed law school is your decision properly situated for any possible governmental approval. Once the courts render a judicial determination, SOGIC would be pleased to provide you with further submissions on this issue as needed.

Yours truly,

"ORIGINAL SIGNED"

Preston I.A.D. Parsons,
Co-chair, SOGIC, CBABC

Sasa Pudar,
Co-chair, SOGIC, CBABC

Kael McKenzie,
Co-chair, SOGIC, CBA

Nicole Nussbaum,
Co-chair, SOGIC, CBA

Encl.

- c. The Honourable Christy Clark, Premier
Kathy Corrigan
Jan Lindsay, QC

March 18, 2013

Via email: grtremblay@mccarthy.ca

Mr. Gérald R. Tremblay, C.M., O.Q., Q.C., Ad.E.
President
Federation of the Law Societies of Canada
World Exchange Plaza
1810-45 O'Connor Street
Ottawa, ON K1P 1A4

Dear Mr. Tremblay:

Re: Trinity Western University School of Law Proposal

I write on behalf of the Canadian Bar Association concerning the application of Trinity Western University for an assessment of whether its proposed law degree meets the Federation's national standards for approving new law degree programs.

The CBA is a national association representing approximately 37,000 jurists, including lawyers, notaries, law teachers and students across Canada, with a mandate that includes seeking improvements in the law and the administration of justice, and promoting equality in the law and in the legal profession.

We support the role of the Federation in determining whether new law degree programs meet national standards for entry to law society licensing programs across Canada. With the increased mobility of lawyers in this country, the development and application of national requirements is critical for cross-border consistency in knowledge, skills, abilities and ethics.

We commend the Federation for its consultations and deliberations in establishing the national standards. In assessing an applicant's compliance with these standards, the Federation is able to:

- a) In its discretion, entertain submissions from persons, organizations, or institutions other than applicants;
- b) Make additional inquiries with the applicant and request such additional written information as it sees fit; and
- c) Control its own process in considering applications for new law degree programs.¹

¹ See the *Final Report of the Task Force on the Canadian Common Law Degree*, Federation of Law Societies of Canada (October 2009), online: <http://www.flsc.ca/documents/Common-Law-Degree-Report-C.pdf>, and the Federation's *ad hoc* committee reports on applications by Lakehead University (Jan 2011), Thompson Rivers University (Jan 2011) and Université de Montréal (Jan 2012).

We have had an opportunity to review the letter from the Council of Canadian Law Deans and your response. We question the perceived limitations on the Federation's role in applying the national standards, and urge you to reconsider your stance in pursuit of the law societies' duty to regulate the legal profession in the public interest.

In our view, the Federation and the Committee charged with approving new Canadian law degree programs must strike a balance between freedom of religion and equality, and give full consideration to its public interest mandate and to the values embodied in Canadian human rights laws.

Based on the delegations of power from its constituent law societies, the Federation has a duty to go beyond a strict determination of a proposed law school's compliance with the national standards. It must assess whether the institution and its program complies with Canadian law, including the protections afforded by the *Canadian Charter of Rights and Freedoms* and the human rights legislation in B.C., and in every province and territory where a proposed law degree may be recognized by the law societies for admission to bar.

We ask the Federation and the Committee to give due consideration to these concerns when assessing Trinity Western's application.

These are complex issues. Indeed, CBA members hold a range of views on the question of the approval of this particular law school. The CBA's Sexual Orientation and Gender Identity Conference (SOGIC) and Equality Committee have articulated one perspective in the attached letter.

The CBA would be pleased to assist in whatever way you believe would be appropriate.

Yours truly,

(original signed by Robert C. Brun)

Robert C. Brun, Q.C.

cc : See Appendix A

March 18, 2013

Via email: grtremblay@mccarthy.ca

Mr. Gérald R. Tremblay, C.M., O.Q., Q.C., Ad.E.
President
Federation of the Law Societies of Canada
World Exchange Plaza
1810-45 O'Connor Street
Ottawa, ON K1P 1A4

Dear Mr. Tremblay:

Re: Trinity Western University School of Law Proposal

We write on behalf of the Sexual Orientation and Gender Identity Conference (SOGIC) and the Equality Committee of the Canadian Bar Association concerning the application of Trinity Western University for an assessment of whether its proposed law degree meets the Federation's National Standards for Approving New Law Degree Programs.

The CBA is a national association representing approximately 37,000 jurists, including lawyers, notaries, law teachers and students across Canada, with a mandate that includes seeking improvements in the law and the administration of justice, and promoting equality in the law and the legal profession. SOGIC provides a forum for the exchange of information, ideas and action on legal issues relating to sexual orientation and gender identity. The Equality Committee is dedicated to achieving equality in the legal profession.

We support the role of the Federation in determining whether new law degree programs meet national standards for entry to law society licensing programs across Canada. With the increased mobility of lawyers in this country, the development and application of national requirements is critical for cross-border consistency in knowledge, skills, abilities and ethics.

A. SOGIC and the Equality Committee's Concerns

We have reviewed your December 4, 2012 response to a November 20, 2012 letter from the Council of Canadian Law Deans on Trinity Western's application and the university's discriminatory treatment of lesbian, gay, bisexual, transsexual and transgender (**LGBT**) students. We question the perceived limitations on the Federation's role in enforcing the National Standards and approving new law degrees.

Even on a strict reading of the National Standards, Trinity Western's application raises concerns, in particular for the National Standards' ethical, constitutional and human rights components, as will be explained in greater detail below.

Moreover, as determined by the Supreme Court of Canada in *Trinity Western University v. College of Teachers*,¹ the Federation's assessment of Trinity Western's application must go beyond "a determination of skills and knowledge" and take into account a broader range of factors.² Indeed, just a year ago, the Supreme Court reiterated in *Doré v. Barreau du Québec*³ that law societies "must act consistently with the values underlying the grant of discretion, including Charter values,"⁴ like other administrative decision-makers exercising delegated authority,

Based on the delegations of power from its constituent law societies, the Federation has not only the power, but the duty to go beyond a strict determination of a proposed law school's compliance with the National Standards. It must assess whether the institution and its program complies with Canadian law, including the protections afforded by the *Canadian Charter of Rights and Freedoms* and the human rights legislation in B.C., and in every province and territory where a proposed law degree may be recognized by the law societies for the purpose of admission to the local bar.

We therefore ask the Federation and its members to give due consideration to these concerns when assessing Trinity Western's application.

One word at the outset on the 2001 Supreme Court decision in *TWU*, which Trinity Western appears to rely on to justify discriminatory treatment of LGBTT students. Although a majority of the judges in that case found in Trinity Western's favour, their analysis was limited to B.C. law. In the present case, given the national scope of its mandate, the Federation must consider the proposed program's compliance with other provincial and territorial human rights legislation. Further, the B.C. College of Teachers "was not directly applying either the *Charter* or the province's human rights legislation when making its decision,"⁵ *Doré* now imposes that obligation on law societies. Finally, recent Supreme Court jurisprudence demonstrates a higher degree of deference to administrative decision-makers when dealing with *Charter* and human rights issues.⁶

As a result, were the Federation to follow the proposals found in our letter's conclusions, its decision would most likely be subject to a lower level of scrutiny than was that of the B.C. College of Teachers at the time. Coupled with the increased recognition of same-sex relationships in Canadian law and society, and the fact that teaching future lawyers may call for the application of different norms in terms of ethics and basic respect for human rights, we submit that a another result could be expected in the present case.

B. Trinity Western's Discriminatory Rules and Practices

As a condition of employment with the university as well as admission into one of its programs, Trinity Western requires students, faculty and staff to sign its Community Covenant Agreement.⁷ The Covenant notably proscribes "sexual intimacy", except between married, opposite-sex spouses,

¹ [2001] 1 S.C.R. 772 (*TWU*). In that case, the Supreme Court weighed in on the B.C. College of Teachers' refusal to recognize Trinity Western's teacher education program.

² *Ibid.*, at para 13. For a detailed legal analysis of this question, see: Professor Elaine Craig, "The Case for the Federation of Law Societies Rejecting Trinity Western University's Application for Approval of a New Law School Program", *Canadian Journal of Women and the Law*, vol. 25(1) (2013).

³ [2012] 1 S.C.R. 395 (*Doré*).

⁴ *Ibid.*, at para 24.

⁵ *TWU*, *supra* note 2, at para 27.

⁶ See in particular *Doré*, *supra* note 4.

⁷ See Trinity Western's Student Handbook, online: <http://twu.ca/studenthandbook/university-policies/community-covenant.html>.

and numerous footnotes to the Covenant's rules on sexual intimacy refer to biblical passages interpreted by some as prohibiting sexual intercourse between members of the same gender.⁸

The Covenant is meant to apply on and off campus and violations may lead to disciplinary sanctions, including dismissal in the case of faculty and staff and removal in the case of students.⁹

The fact that no student may ever be expelled for breaching the Covenant's sexual intimacy rules is not determinative. As acknowledged by the Supreme Court of Canada in *Vriend v. Alberta*,¹⁰ the mere fear of discrimination may in and of itself cause serious psychological harm: "Fear of discrimination will logically lead to concealment of true identity and this must be harmful to personal confidence and self-esteem. [...] The potential harm to the dignity and perceived worth of gay and lesbian individuals constitutes a particularly cruel form of discrimination."¹¹

The same may be said of the fact that the Covenant purportedly targets sexual behaviour as opposed to sexual orientation. As Justice L'Heureux-Dubé wrote in her dissenting opinion in *TWU*, which was just endorsed by a unanimous Court in *Saskatchewan (Human Rights Commission) v. Whatcott*:¹²

I am dismayed that at various points in the history of this case the argument has been made that one can separate condemnation of the "sexual sin" of "homosexual behaviour" from intolerance of those with homosexual or bisexual orientations. This position alleges that one can love the sinner, but condemn the sin. ... The status/conduct or identity/practice distinction for homosexuals and bisexuals should be soundly rejected [...] [Emphasis added]¹³

C. Trinity Western Covenant Incompatible with Human Rights Legislation

As a private institution, Trinity Western is not subject to the *Charter*. Trinity Western's President Dr. Jonathan S. Raymond claimed in a recent interview that the issue of the Covenant's conformity with the B.C. *Human Rights Code*¹⁴ has been resolved since the 2001 Supreme Court of Canada decision of *TWU*,¹⁵ based on s. 41(1) of the *BCHRC*. That provision reads as follows:

41 (1) If a charitable, philanthropic, educational, fraternal, religious or social organization or corporation that is not operated for profit has as a primary purpose the promotion of the interests and welfare of an identifiable group or class of persons characterized by a physical or mental disability or by a common race, religion, age, sex, marital status, political belief, colour, ancestry or place of origin, that organization or corporation must not be considered to be contravening this Code because it is granting a preference to members of the identifiable group or class of persons. [Emphasis added]

⁸ Community Covenant Agreement, online: <http://twu.ca/studenthandbook/student-handbook-2012-2013.pdf>, pp. 19-23.

⁹ *Id.* As outlined in the Student Handbook, "[i]f a student, in the opinion of the University, is unable, refuses or fails to live up to their commitment, the University reserves the right to discipline, dismiss, or refuse a student's re-admission to the University" (p. 23).

¹⁰ [1998] 1 S.C.R. 493 (*Vriend*).

¹¹ *Ibid.*, at para 102 [emphasis added].

¹² 2013 SCC 11 (*Whatcott*).

¹³ *Ibid.*, at para 123, citing *TWU*, *supra* note 2, para 69.

¹⁴ RSBC 1996, c. 210 (*BCHRC*). See *TWU*, *supra* note 2, at paras 13 and 35.

¹⁵ See Sarah Boesveld, "Canadian deans accused of 'anti-religious bias' over attempt to block Christian law school", in *National Post*, January 18, 2013 edition, online: <http://life.nationalpost.com/2013/01/18/canadian-deans-accused-of-anti-religious-bias-over-attempt-to-block-christian-law-school/>.

The legality of Trinity Western's Covenant in light of the *BCHRC*'s prohibition of discrimination based on sexual orientation was not directly at issue in *TWU*, nor was it analyzed at any length by the lower courts and the Supreme Court of Canada. The Covenant's compliance with the *BCHRC* remains an open question, especially in light of evolving notions of human rights and the increased legal and societal recognition afforded to LGBTTT individuals and their relationships.

Given the national scope of the Federation's mandate and the increased mobility of lawyers between Canadian jurisdictions, any analysis of these issues cannot be limited to Trinity Western's compliance with B.C. legislation. Since the Federation's recommendation will be applied in every Canadian common law jurisdiction, consideration must be given to the Covenant's compatibility with other provincial and territorial human rights laws.

Provisions analogous to s. 41(1) of the *BCHRC* are found in 10 of 13 provincial and territorial human rights statutes, with great variations in language and scope.¹⁶ For instance, the religious organization's "exemption" applies, subject to conditions, to all types of services and contracts in four provinces and one territory.¹⁷ It is limited to employment contracts in five other jurisdictions.¹⁸ As such, there appears to be no legal justification for Trinity Western's discriminatory rules and practices in at least eight out of thirteen Canadian jurisdictions.¹⁹

As for the five jurisdictions where human rights laws include a more general exemption for religious organizations, jurisprudence interpreting the clauses is scarce and, in some respects, dated, at least at the Supreme Court of Canada level. The predecessor to s. 41 of the *BCHRC* was considered by the Supreme Court in the 1984 case of *Caldwell v. Stuart*,²⁰ while *Brossard v. Québec (Comm. des droits de la personne)*,²¹ issued in 1988, dealt with s. 20 of the Quebec *Charter of Human Rights and Freedoms*.²²

In both judgments, the last to substantially consider the scope of exemptions for religious organizations at the Supreme Court level, the Court outlined their close connection to the protection of freedom of association. In *Brossard*, the Court held that in order to qualify for the exemption, a non-profit organization "must have, as a primary purpose, the promotion of the interests and welfare of an identifiable group of persons characterized by a common [enumerated] ground..."²³ The Court then added that "the distinction, exclusion or preference practised by the non-profit institution to which the second branch applies must be justified in an objective sense by the particular nature of the institution

¹⁶ The relevant provisions of provincial and territorial statutes are reproduced in Schedule A.

¹⁷ Namely British Columbia, Ontario, Quebec, Prince Edward Island and Yukon.

¹⁸ Namely Saskatchewan, Nova Scotia, Newfoundland and Labrador, Northwest Territories and Nunavut. In the case of Newfoundland and Labrador, the exemption also covers membership in a religious organization; see s. 11(3)(d) of the *Human Rights Act, 2010*, S.N.L. 2010, c. H-13.1.

¹⁹ Namely Alberta, Saskatchewan, Manitoba, New Brunswick, Nova Scotia, Newfoundland and Labrador, Northwest Territories and Nunavut.

²⁰ [1984] 2 S.C.R. 603 ("*Caldwell*").

²¹ [1988] 2 S.C.R. 279 ("*Brossard*").

²² R.S.Q., c. C-12. That provision reads: "A distinction, exclusion or preference based on the aptitudes or qualifications required for an employment, or justified by the charitable, philanthropic, religious, political or educational nature of a non-profit institution or of an institution devoted exclusively to the well-being of an ethnic group, is deemed non-discriminatory."

²³ *Supra* note 23, at para 130.

in question."²⁴ We submit that Trinity Western's ban on sexual intimacy outside of marriage between a man and a woman is not so *objectively* justified.

Pursuant to the *Trinity Western University Act*,²⁵ it is recognized as a Christian institution affiliated with the Evangelical Free Church of Canada. Yet the university does not purport to have "as a primary purpose, the promotion of the interests and welfare of an identifiable group of persons", nor to exclude individuals who do not share its religious beliefs. On the contrary, under its legislative mandate, it must welcome students of all faiths. Subsection 3(2) of the Act, as amended, provides:

(2) The objects of the University shall be to provide for young people of any race, colour, or creed university education in the arts and sciences with an underlying philosophy and viewpoint that is Christian. [Emphasis added]

It appears that the B.C. legislature has *not* authorized the institution to grant "a preference to members" of any particular church or religion, or to individuals who hold beliefs similar to those of the Evangelical Free Church of Canada, but rather has specified that its public mandate must be exercised to be inclusive of people of *all* races and creeds. This should include individuals who do *not* share Trinity Western's views on sexual intimacy, notably members of the LGBTT communities. One is hard pressed to see how purporting to exclude LGBTT students, or force them to conceal their true identity, could amount to an objectively justifiable purpose rationally connected to Trinity Western's educative mandate, irrespective of that school's worldview.

D. Following these recommendations would not hamper freedom of religion

Some, including the British Columbia Civil Liberties Association, have argued that denying Trinity Western's application would violate the freedom of religion and freedom of association of the school's community.²⁶ We respectfully disagree.

As recently noted by the Supreme Court of Canada in *Whatcott*, relying on its jurisprudence post-*TWU*, freedom of religion is only infringed where: "(1) the claimant sincerely holds a belief or practice that has a nexus with religion; and (2) the provision at issue interferes with the claimant's ability to act in accordance with his or her religious beliefs."²⁷ The interference must be so serious as to "[threaten] actual religious beliefs or conduct."²⁸

Although we do not question the sincerity of the religious beliefs of those forming the Trinity Western community on sexual mores, removing or modifying the school's Covenant and other rules, practices and policies, as we suggest in the conclusion to this letter, would fall short of threatening the beliefs or conduct of these individuals. Trinity Western's Christian character and affiliation to the Evangelical Free Church of Canada could be maintained. Those who share the school's views on sexual intimacy would still be welcomed as faculty and students, the same way they are at every other university in Canada, and they would be free to express their beliefs and to try to convince others to abide by the same moral standards. What would be forbidden is the creation of a "LGBTT-

²⁴ *Ibid.*, at para 138. According to the B.C. Court of Appeal in *Vancouver Rape Relief Society v. Nixon*, 2005 BCCA 601 (CanLII) (leave application denied, February 1, 2007, S.C.C. No. 31633), at paras 52-53, the *BCHRC* is not so limitative. Be that as it may, the Court, based on *Caldwell*, accepted that there had to be a "rational connection" between the discriminatory practice and the institution's objects: "All of this is to say that, in my view, the reviewing judge was correct in following the guidance of *Caldwell* and concluding that a group can prefer a subgroup of those whose interests it was created to serve, given good faith and provided there is a rational connection between the preference and the entity's work, or purpose" (para. 58).

²⁵ S.B.C. 1969, c. 44,

²⁶ Letter from BCCLA to the Federation, January 31, 2013, online: <http://bccla.org/wp-content/uploads/2013/01/2013-BCCLA-Letter-to-Herman-Wolfe-TWU.pdf>.

²⁷ *Whatcott*, *supra* note 13, at para 155.

²⁸ *Ibid.* [emphasis added].

free” school environment, which is no more of a right guaranteed by freedom of religion than a “women-free” or “Jew-free” campus would be.

Even if a violation of freedom of religion could be demonstrated, s. 1 of the *Charter* would require that it be reconciled with the right to equality accorded to all Canadians.²⁹ One would have to account for the fact that the exercise of freedom of religion by Trinity Western’s members denies LGBTTT’s faculty and students respect for their dignity and equality, as protected by s. 15(1) of the *Charter*. As the Supreme Court held in *Ross v. New Brunswick School District No. 15*,³⁰ “[w]here the manifestations of an individual’s right or freedom are incompatible with the very values sought to be upheld in the process of undertaking a s. 1 analysis, then, an attenuated level of s. 1 justification is appropriate.”³¹ For these reasons, we believe that Trinity Western’s exclusion of LGBTTT individuals would not meet this test.

To sum up, we believe that freedom of religion does not allow one group of individuals to exclude another group of identifiable individuals from access to a public service, such as a university education, on the ground of race, colour, religion, national origin, gender, sexual orientation, gender identity, age or disability, except of course when academically justified based on admission and eligibility criteria.³² In our view, institutional rules that discriminate against identifiable groups of people, which for too long restricted or denied access to some professions to certain racial and religious minorities,³³ have no place in today’s Canada.

E. The U.S. Experience

These issues may be informed by the U.S. experience and approach.

In *Bob Jones University v. United States*,³⁴ the U.S. Supreme Court was called on to determine whether the Internal Revenue Services (IRS) could deny tax-exempt status to two non-profit private schools that prescribed and enforced racially discriminatory admission standards on the basis of religious doctrine.³⁵ The IRS had removed the schools’ charitable status on the ground that their admission policies and rules of conduct violated federal anti-discrimination laws.

The Court confirmed the IRS’s decision, holding that it was justified under the circumstances. The Chief Justice noted that “racial discrimination in education violates deeply and widely accepted views of elementary justice”³⁶ and the “governmental interest [in eradicating racial discrimination in education] substantially outweighs whatever burden denial of tax benefits places on petitioners’ exercise of their religious beliefs.”³⁷

²⁹ *Whatcott*, *supra* note 13, at para 161.

³⁰ [1996] 1 S.C.R. 825.

³¹ *Ibid.*, para 94, cited in *Whatcott*, *supra* note 13, at para 162.

³² *University of British Columbia v. Berg*, [1993] 2 S.C.R. 353.

³³ For example, up to the 1960s, McGill University and U of Toronto imposed “quotas” on the admission of Jewish students to medical school and restrictions on hiring Jewish faculty members; see Gerald Tulchinsky, *Canada’s Jews: A People’s Journey*, Toronto: University of Toronto Press (2008), pp. 132-133, 319-321, 410 and 415.

³⁴ 461 U.S. 574 (1983) (“*Bob Jones University*”).

³⁵ Bob Jones University was dedicated to the teaching and propagation of fundamentalist Christian religious beliefs, requiring its teachers to be devout Christians, with all courses being taught according to the Bible. Entering students were screened on their religious beliefs and their public and private conduct was regulated by standards promulgated by university authorities, including a complete ban on interracial dating and marriage, which was genuinely believed to be forbidden by scriptures. Goldsboro Christian Schools also gave special emphasis to the Christian religion and the ethics revealed in the Bible. The school maintained a racially discriminatory admission policy based upon its interpretation of scripture. It accepted mostly Caucasians and, on occasion, children from racially mixed marriages in which one of the parents was Caucasian.

³⁶ *Bob Jones University*, *supra* note 42, at p. 592.

³⁷ *Ibid.*, at p. 604.

The same may be said of discrimination on the basis of sexual orientation in Canada, which is prohibited under the *Charter* as well as federal, provincial and territorial human rights laws. That was the question at issue in *Christian Legal Society of University of California, Hastings College of Law v. Martinez*³⁸, where the U.S. Supreme Court had to determine whether a public law school, part of the state government's network of universities, could refuse to officially recognize a student group that denied membership to students who did not share the organization's core beliefs about religion and sexual orientation, but instead require that it open its membership to all students irrespective of their religious beliefs or sexual orientation.³⁹

The Court found that although the group's core beliefs enjoyed protection under the First Amendment of the U.S. Constitution, (which guarantees freedom of speech, association and religion) the university's refusal to recognize organizations that practiced discrimination fulfilled "reasonable educational purposes."⁴⁰ The group had argued that the university held no legitimate interest in urging "religious groups not to favor coreligionists for purposes of their religious activities." The Court's response was:

[...] CLS's analytical error lies in focusing on the benefits it must forgo while ignoring the interests of those it seeks to fence out: Exclusion, after all, has two sides. Hastings, caught in the crossfire between a group's desire to exclude and students' demand for equal access, may reasonably draw a line in the sand permitting all organizations to express what they wish but no group to discriminate in membership. [Footnote omitted] [Emphasis added]⁴¹

In concurring reasons, Stevens J. noted that the constitutional protection afforded to freedom of religion and speech does not impose on a government agency the obligation to officially recognize every religious organization, irrespective of their discriminatory beliefs and conduct:

[...] Other groups may exclude or mistreat Jews, blacks, and women—or those who do not share their contempt for Jews, blacks, and women. A free society must tolerate such groups. It need not subsidize them, give them its official imprimatur, or grant them equal access to law school facilities. [Emphasis added]⁴²

In August 2012, the American Bar Association adopted new *Standards and Rules of Procedure for Approval of Law Schools*.⁴³ Standard 211, "Non-discrimination and Equality of Opportunity", stipulates that "[a] law school shall not use admission policies or take other action to preclude admission of applicants or retention of students on the basis of race, color, religion, national origin, gender, sexual orientation, age or disability."⁴⁴ Although law schools may have a religious affiliation or purpose, adopt and apply admission and employment policies that directly relate to their affiliation or purpose, and prefer persons adhering to same, the policies must not interfere with academic freedom and "shall not be applied to use admission policies or take other action to

³⁸ 561 U.S. ___ (2010) ("*CLS*").

³⁹ Christian Legal Society's chapters had to adopt bylaws that required members and officers to sign a "Statement of Faith" and to conduct their lives in accord with prescribed principles. Among those tenets was the belief that sexual activity should not occur outside of marriage between a man and a woman, thereby excluding LGBTT students and those who did not share the group's religious views on such issues.

⁴⁰ *CLS*, *supra* note 46, at p. 2 of the Court's opinion, written by Ginsburg J.

⁴¹ *Ibid.*, at p. 28 of the Court's opinion, written by Ginsburg J.

⁴² *Ibid.*, at p. 6 of Steven J.'s concurring opinion.

⁴³ Available online at:
http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2012_2013_aba_standards_and_rules_authcheckdam.pdf.

⁴⁴ *Ibid.*, at p. 12.

preclude admission of applicants or retention of students on the basis of race, color, religion, national origin, gender, sexual orientation, age or disability.”⁴⁵

F. Conclusions

Lawyers are viewed as leaders in their communities. Lawyers rely on law societies to offer leadership and regulation in the public interest, including on issues relating to equality. SOGIC and the Equality Committee believe that the Federation must consider the educational philosophy and environment of a law school and how that impacts the institution’s ability to teach law, to properly perform its function of assessing compliance with the National Standards. As the U.S. Supreme Court held in *Norwood v. Harrison*,⁴⁶ “a private school—even one that discriminates—fulfills an important educational function; however, [...] [that] legitimate educational function cannot be isolated from discriminatory practices. [...] [D]iscriminatory treatment exerts a pervasive influence on the entire educational process.”⁴⁷

Our members are your members. They have voiced concerns about Trinity Western’s proposal to us, and we agree. We have seen Canadian law societies work to protect and encourage diversity in law and in the practice of law and we view them as allies in this regard. Whether via an Equity Office or Officer, Equity Ombudsman, or a like representative, our law societies have done our members proud. We are asking them, and the Federation, to honour and continue that tradition. We urge you to reconsider your stance in pursuance of the law societies’ duty to regulate the legal profession in the public interest.

The Federation must strike a balance between freedom of religion and equality, and give full consideration to its public interest mandate and to the values embodied in our human rights instruments. In that respect, we invite the Federation to seek inspiration from the ABA’s August 2012 *Standards and Rules of Procedure for Approval of Law Schools*.

Finally, Trinity Western’s application does not necessarily call for an “all or nothing” response. For example, short of rejecting it, the Federation could ask Trinity Western to remove or modify its Covenant and other rules, practices and policies which detract from its ability to meet the National Standards and to comply with human rights laws across the country as well as minimum norms guaranteeing academic freedom. This could be achieved while maintaining the Christian character of the school, yet ensuring that it is truly open to “young people of any race, colour, or creed,” in accordance with its statutory mandate.

We hope this letter is the beginning of an open dialogue on this very important issue. SOGIC and the Equality Committee would be pleased to assist in whatever way you believe would be appropriate.

Yours truly,

(signed by Rebecca Bromwich for Amy Sakalauskas, Robert Peterson and Level Chan)

Amy Sakalauskas
Co-chair, CBA Sexual
Orientation and Gender
Identity Conference

Robert Peterson
Co-chair, CBA Sexual
Orientation and Gender
Identity Conference

Level Chan
Chair, CBA Equality
Committee

cc: See Appendix A

⁴⁵ *Ibid.*, at pp. 12-13 [emphasis added].

⁴⁶ 413 U.S. 455 (1973). The Court held in that case that a state could not constitutionally give or lend textbooks to students who attended a private school that discriminated on the basis of race.

⁴⁷ *Ibid.*, at pp. 468-469 [emphasis added].

SCHEDULE
PROVINCIAL AND TERRITORIAL HUMAN RIGHTS PROVISIONS GRANTING EXEMPTIONS TO
PRIVATE OR RELIGIOUS ORGANIZATIONS

I. PROVINCIAL AND TERRITORIAL STATUTES WITH A GENERAL EXCEPTION FOR RELIGIOUS ORGANIZATIONS

British Columbia - *Human Rights Code*, R.S.B.C. 1996, c. 210

41. (1) If a charitable, philanthropic, educational, fraternal, religious or social organization or corporation that is not operated for profit has as a primary purpose the promotion of the interests and welfare of an identifiable group or class of persons characterized by a physical or mental disability or by a common race, religion, age, sex, marital status, political belief, colour, ancestry or place of origin, that organization or corporation must not be considered to be contravening this Code because it is granting a preference to members of the identifiable group or class of persons.

Ontario - *Human Rights Code*, R.S.O. 1990, c. H.19

18. The rights under Part I to equal treatment with respect to services and facilities, with or without accommodation, are not infringed where membership or participation in a religious, philanthropic, educational, fraternal or social institution or organization that is primarily engaged in serving the interests of persons identified by a prohibited ground of discrimination is restricted to persons who are similarly identified.

Quebec - *Charter of Human Rights and Freedoms*, R.S.C., c. C-12

20. A distinction, exclusion or preference based on the aptitudes or qualifications required for an employment, or justified by the charitable, philanthropic, religious, political or educational nature of a non-profit institution or of an institution devoted exclusively to the well-being of an ethnic group, is deemed non-discriminatory.

Prince Edward Island - *Human Rights Act*, R.S.P.E.I. 1988, c. H-12

- 6.** (1) No person shall refuse to employ or to continue to employ any individual
- (a) on a discriminatory basis, including discrimination in any term or condition of employment; or
 - (b) because the individual has been convicted of a criminal or summary conviction offence that is unrelated to the employment or intended employment of the individual.
- (4) This section does not apply to
- [...]
 - (c) an exclusively religious or ethnic organization or an agency of such an organization that is not operated for private profit and that is operated primarily to foster the welfare of a religious or ethnic group with respect to persons of the same religion or ethnic origin as the case may be, if age, colour, creed, ethnic or national origin, family status, marital status, disability, political belief, race, religion, sex, sexual orientation or source of income is a reasonable occupational qualification.

10. (1) No person or agency carrying out a public function, including fire protection or hospital services, through the use in whole or in part of functions volunteers, shall exclude, expel or limit any volunteer applicant on a discriminatory basis.

- (2) This section does not apply to an exclusively religious or ethnic organization that is not

operated for private profit and that is operated primarily to foster the welfare of a religious or ethnic group with respect to persons of the same religion or ethnic origin, as the case may be.

Yukon - *Human Rights Act*, R.S.Y. 2002, c. 116

11. (1) It is not discrimination for a religious charitable, educational, social, cultural, or athletic organization to give preference to its members or to people the organization exists to serve.

II. PROVINCIAL AND TERRITORIAL STATUTES WITH A RELIGIOUS ORGANIZATION EXCEPTION LIMITED TO EMPLOYMENT AND MEMBERSHIP IN THE ORGANIZATION

Newfoundland and Labrador - *Human Rights Act*, 2010, S.N.L. 2010, c. H-13.1

11. (1) A person shall not, on the basis of a prohibited ground of discrimination,
(a) deny to a person or class of persons goods, services, accommodation or facilities that are customarily offered to the public; or
(b) discriminate against a person or class of persons with respect to goods, services, accommodation or facilities that are customarily offered to the public.

[...]

(3) Subsection (1) does not apply

[...]

- (d) to a restriction on membership on the basis of a prohibited ground of discrimination, in a religious, philanthropic, educational, fraternal, sororal or social organization that is primarily engaged in serving the interests of a group of persons identified by that prohibited ground of discrimination; or
- (e) to other situations where a good faith reason exists for the denial of or discrimination with respect to accommodation, services, facilities or goods.

14. (1) An employer, or a person acting on behalf of an employer, shall not refuse to employ or to continue to employ or otherwise discriminate against a person in regard to employment or a term or condition of employment on the basis of a prohibited ground of discrimination, or because of the conviction for an offence that is unrelated to the employment of the person.

[...]

(8) This section does not apply to an employer

- (a) that is an exclusively religious, fraternal or sororal organization that is not operated for private profit, where it is a reasonable and genuine qualification because of the nature of the employment; or

[...]

III. PROVINCIAL AND TERRITORIAL STATUTES WITH A RELIGIOUS ORGANIZATION EXCEPTION LIMITED TO EMPLOYMENT

Saskatchewan - *Saskatchewan Human Rights Code*, S.S. 1979, c. S-24.1

16. (1) No employer shall refuse to employ or continue to employ or otherwise discriminate against any person or class of persons with respect to employment, or any term of employment, on the basis of a prohibited ground.

[...]

(10) This section does not prohibit an exclusively non-profit charitable, philanthropic, fraternal, religious, racial or social organization or corporation that is primarily engaged in serving the interests of persons identified by their race, creed, religion, colour, sex, sexual orientation, family status, marital status, disability, age, nationality, ancestry, place of origin or receipt of public assistance from employing only or giving preference in employment to persons similarly identified

if the qualification is a reasonable and *bona fide* qualification because of the nature of the employment.

Nova Scotia - *Human Rights Act*, R.S.N.S. 1989, c. 214

5. (1) No person shall in respect of

- (a) the provision of or access to services or facilities;
[...]
- (d) employment;
- (e) volunteer public service;
[...]

discriminate against an individual or class of individuals on account of

- (h) age;
- (i) race;
- (j) colour;
- (k) religion;
- (l) creed;
- (m) sex;
- (n) sexual orientation;
- (o) physical disability or mental disability;
- (p) an irrational fear of contracting an illness or disease;
- (q) ethnic, national or aboriginal origin;
- (r) family status;
- (s) marital status;
- (t) source of income;
- (u) political belief, affiliation or activity;
- (v) that individual's association with another individual or class of individuals having characteristics referred to in clauses (h) to (u).

6. Subsection (1) of Section 5 does not apply

- [...]
- (c) in respect of employment, to
[...]
- (ii) an exclusively religious or ethnic organization or an agency of such an organization that is not operated for private profit and that is operated primarily to foster the welfare of a religious or ethnic group with respect to persons of the same religion or ethnic origin, as the case may be, with respect to a characteristic referred to in clauses (h) to (v) of subsection (1) of Section 5 if that characteristic is a reasonable occupational qualification, or
- (iii) employees engaged by an exclusively religious organization to perform religious duties;
- (d) in respect of volunteer public service, to an exclusively religious or ethnic organization that is not operated for private profit and that is operated primarily to foster the welfare of a religious or ethnic group with respect to persons of the same religion or ethnic origin, as the case may be;
[...]

Northwest Territories - *Human Rights Act*, S.N.W.T. 2002, c. 18

7. (1) No person shall, on the basis of a prohibited ground of discrimination,

- (a) refuse to employ or refuse to continue to employ an individual or a class of individuals;
or
- (b) discriminate against any individual or class of individuals in regard to employment or

any term or condition of employment.

[...]

(5) It is not a contravention of subsection (1) for an organization, society or corporation to give preference in employment to an individual or class of individuals if the preference is solely related to the special objects in respect of which the organization, society or corporation was established and the organization, society or corporation

(a) is not operated for private profit; and

(b) is

(i) a charitable, educational, fraternal, religious, social or cultural organization, society or corporation, or

(ii) an organization, society or corporation operated primarily to foster the welfare of a religious or racial group.

Nunavut - *Human Rights Act*, S.Nu. 2003, c. 12

9. (1) No person shall, on the basis of a prohibited ground of discrimination

(a) refuse to employ or refuse to continue to employ an individual or a class of individuals; or

(b) discriminate against any individual or class of individuals in regard to employment or any term or condition of employment, whether the term or condition was prior to or is subsequent to the employment.

(6) It is not a contravention of subsection (1) for an organization, society or corporation to give preference in employment to an individual or class of individuals if the preference is solely related to the special objects in respect of which the organization, society or corporation was established and the organization, society or corporation

(a) is a not for profit organization, society or corporation; and

(b) is

(i) a charitable, educational, fraternal, religious, athletic, social or cultural organization, society or corporation, or

(ii) an organization, society or corporation operated primarily to foster the welfare of a religious or racial group.

IV. PROVINCIAL AND TERRITORIAL STATUTES WITH NO SPECIFIC EXCEPTION FOR RELIGIOUS ORGANIZATIONS

Alberta - *Alberta Human Rights Act*, R.S.A. 2000, c. A-25.5

7. (1) No employer shall

(a) refuse to employ or refuse to continue to employ any person, or

(b) discriminate against any person with regard to employment or any term or condition of employment,

because of the race, religious beliefs, colour, gender, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation of that person or of any other person.

[...]

(3) Subsection (1) does not apply with respect to a refusal, limitation, specification or preference based on a *bona fide* occupational requirement.

Manitoba - *The Human Rights Code*, C.C.S.M., c. H175

13. (1) No person shall discriminate with respect to any service, accommodation, facility, good, right, licence, benefit, program or privilege available or accessible to the public or to a section of the

public, unless *bona fide* and reasonable cause exists for the discrimination.

New Brunswick - *Human Rights Act*, R.S.N.B. 2011, c. 171

4. (1) No employer, employers' organization or other person acting on behalf of an employer shall, because of race, colour, religion, national origin, ancestry, place of origin, age, physical disability, mental disability, marital status, sexual orientation, sex, social condition or political belief or activity,

- (a) refuse to employ or continue to employ any person, or
- (b) discriminate against any person in respect of employment or any term or condition of employment.

(5) Despite subsections (1), (2), (3) and (4), a limitation, specification or preference on the basis of race, colour, religion, national origin, ancestry, place of origin, age, physical disability, mental disability, marital status, sexual orientation, sex, social condition or political belief or activity shall be permitted if the limitation, specification or preference is based on a *bona fide* occupational qualification as determined by the Commission.

6. (1) No person, directly or indirectly, alone or with another, by himself, herself or itself or by the interposition of another, shall, because of race, colour, religion, national origin, ancestry, place of origin, age, physical disability, mental disability, marital status, sexual orientation, sex, social condition or political belief or activity,

- (a) deny to any person or class of persons any accommodation, services or facilities available to the public, or
- (b) discriminate against any person or class of persons with respect to any accommodation, services or facilities available to the public.

(2) Despite subsection (1), a limitation, specification, exclusion, denial or preference because of sex, social condition, political belief or activity, physical disability, mental disability, marital status or sexual orientation shall be permitted if the limitation, specification, exclusion, denial or preference is based on a *bona fide* qualification as determined by the Commission.

Appendix A – Carbon Copies

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THE CANADIAN
BAR ASSOCIATION
L'ASSOCIATION DU
BARREAU CANADIEN

INFLUENCE. LEADERSHIP. PROTECTION.

NEWS RELEASE

FOR IMMEDIATE RELEASE

December 18, 2013



Statement by Fred Headon, CBA President, on TWU decision by FLSC

OTTAWA — The CBA is pleased that the Federation of Law Societies of Canada acknowledges that the public interest impacts of their decisions must be considered when accrediting law schools.

However, the Association would have appreciated a more open, consultative process so that the evidence and many points of view on the issue might have been more fully aired. Unfortunately, the closed process will lead to the practical result of a group of people being excluded from attending or teaching at the proposed law school on the basis of their sexual orientation.

The FLSC has granted preliminary approval to the university. The issues raised by the Trinity Western University (TWU) application are complex and CBA members hold a range of views on approval of this particular law school, and on the interpretation of the applicable law.

The CBA's Sexual Orientation and Gender Identity Conference and Equality Committee have articulated their views in a letter sent to the FLSC last March in conjunction with a letter sent by the CBA. The CBA asked the Federation to strike a balance between freedom of religion and equality and to give full consideration to its public interest mandate and the values embodied in Canadian human rights laws.

The FLSC acknowledges that lawyers are bound to uphold the Rule of Law and fundamental values set out in the Constitution of Canada, including the Charter of Rights and Freedoms and human rights legislation, and that "adherence by lawyers to principles of non-discrimination in the exercise of their professional duties is an essential part of what defines a member of the profession." The CBA agrees.

The CBA welcomes the special advisory committee's recommendation that the national requirements be amended to include a non-discrimination clause. The ABA principles offer a starting point for a provision that meets the exigencies of Canadian law and values. We encourage the Federation and law societies to have full public consultations. CBA will be pleased to participate and assist in the creation of a Charter and human-rights compliant approach to the accreditation of law schools.

The issues will continue to be debated within the CBA in the coming months.

The Canadian Bar Association is dedicated to support for the rule of law, and improvement in the law and the administration of justice. Some 37,500 lawyers, notaries, law teachers, and law students from across Canada are members.

MEDIA CONTACT

Hannah Bernstein
The Canadian Bar Association
613-237-2925, ext. 146
hannahb@cba.org

ABOUT

THE CANADIAN BAR ASSOCIATION:

500-865 Carling Avenue
Ottawa, ON K1S 5S8

Tel: 613-237-2925
Toll-free: 1-800-267-8860
Fax: 613-237-0185
E-mail: info@cba.org

- 30 -

Non-Discrimination in Legal Education

WHEREAS discrimination continues in the legal profession in Canada despite significant progress toward its elimination;

WHEREAS ending discrimination in the legal profession benefits the profession by enabling it to represent itself with integrity as an advocate for justice;

WHEREAS discrimination in legal education undermines the ethical underpinnings of the legal profession;

WHEREAS the existence of discrimination may contribute to an educational environment in which freedom of expression is inhibited;

WHEREAS the formation of values in law school has a long-term impact on Canada's future lawyers;

WHEREAS discrimination is not a recognized protected form of freedom of expression;

WHEREAS any conflict between enumerated freedoms must consider the potential impact on the legal profession, the justice system and our society as a whole;

Non-discrimination dans la formation juridique

ATTENDU QU'il y a encore de la discrimination dans la profession juridique au Canada, malgré les importants progrès réalisés en vue de l'éliminer;

ATTENDU QUE l'élimination de la discrimination dans la profession juridique est avantageuse pour la profession parce qu'elle lui permet de se présenter légitimement comme défenseur de la justice;

ATTENDU QUE la discrimination dans la formation juridique mine les fondements éthiques de la profession juridique;

ATTENDU QUE la présence de discrimination peut contribuer à un environnement éducatif dans lequel la liberté d'expression est entravée;

ATTENDU QUE l'acquisition de valeurs dans les écoles de droit a une incidence à long terme sur les futurs avocats au Canada;

ATTENDU QUE la discrimination n'est pas reconnue comme une forme de liberté d'expression protégée;

ATTENDU QUE tout conflit entre des libertés protégées doit être réglé en tenant compte de l'incidence possible sur la profession juridique, le système de justice et notre société dans son ensemble;

BE IT RESOLVED THAT the Canadian Bar Association urge the Federation of Law Societies of Canada and the provincial and territorial law societies to require all legal education programs recognized by the law societies for admission to the bar to provide equal opportunity without discrimination on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, gender expression, gender identity, age or mental or physical disability, or conduct that is integral to and inseparable from identity for all persons involved in legal education – including faculty, administrators and employees (in hiring, continuation, promotion and continuing faculty status), applicants for admission, enrolled students and graduates of those educational programs.

Certified true copy of a resolution carried as amended by the Council of the Canadian Bar Association at the Mid-Winter Meeting held in Ottawa, ON, February 22-23, 2014.

QU'IL SOIT RÉSOLU QUE L'Association du Barreau canadien exhorte la Fédération des ordres professionnels de juristes du Canada et les barreaux provinciaux et territoriaux à exiger que tous les programmes de formation juridique reconnus par les barreaux en vue de l'admission au barreau assurent l'égalité des chances indépendamment de toute discrimination fondée sur la race, l'origine ethnique, l'origine nationale, la couleur, la religion, le sexe, l'orientation sexuelle, l'expression sexuelle, l'identité sexuelle, l'âge ou la déficience mentale ou physique, ou un comportement qui fait partie intégrante de l'identité et en est indissociable pour tous dans la formation juridique, y compris pour les enseignants, les administrateurs et les employés (dans l'embauche, le maintien en poste, la promotion et le maintien de l'affiliation à une faculté), pour les candidats à l'admission à ces programmes de formation, pour les étudiants qui y sont inscrits, et pour les étudiants qui en sont diplômés.

Copie certifiée d'une résolution adoptée, tel que modifiée, par le Conseil de l'Association du Barreau canadien, lors de l'Assemblée de la mi-hiver, à Ottawa (ON), du 22 au 23 février 2014.

**John D.V. Hoyles
Chief Executive Officer/Chef de la direction**

Culleton, Anita Y AVED:EX

From: Ann Coats <Ann.Coats@twu.ca>
Sent: Friday, November 28, 2014 12:31 PM
To: Minister, AVED AVED:EX
Subject: Letter to Minister Virk - Trinity Western University
Attachments: Amrik Virk 11282014.pdf

The attached letter is sent on behalf of Bob Kuhn, President, Trinity Western University. Please confirm that the document has been received.

Kind Regards,

Ann

ANN COATS

Senior Executive Assistant to the President and Board of Governors | Office of the President

Trinity Western University | t: 604.513.2021 | f: 604.513.2145



November 28, 2014

Honourable Amrik Virk
Minister of Advanced Education
PO Box 9080 Stn Prov Govt
Victoria BC V8W 9E2

Minister Virk,

We write in response to your letter of November 17, 2014. You indicate that you are “considering revoking [your] consent” for our JD program. This follows the decision of the Benchers of the Law Society of British Columbia (“LSBC”) to reverse their earlier decision in favour of recognizing graduates of the TWU School of Law.

Under section 5 of the *Degree Authorization Act* (“DAA”), you are permitted to “suspend or revoke” your consent, or “change or remove terms and conditions attached to the consent” on limited grounds. You may do so if a person who has received consent “fails to comply with the [DAA] or the regulations or with the terms and conditions of the consent”.

That precondition to revoking or suspending your consent does not yet exist. TWU has not failed to comply with the DAA, the regulations, or the terms and conditions of your consent. We have moved expeditiously in both Nova Scotia and Ontario to challenge decisions made in those jurisdictions. We intend to move as expeditiously with respect to having the October 31, 2014 decision of the Benchers of the LSBC reviewed by the Courts.

As you know, on April 11, 2014, the Benchers of the LSBC voted against a resolution that would have denied our School of Law graduates the ability to article and practice law in B.C. They recognized then that the law supports TWU and the approval of our School of Law.

The special meeting that occurred in June may have been conducted under s.13 of the *Legal Profession Act*, however, the same cannot be said about the subsequent referendum or the October 31, 2014 decision of the LSBC Benchers. The Benchers were not in a position to bind themselves to a vote of the membership and their decision was not a proper or lawful exercise of their statutory decision making power. We also note that, unlike Mr. Mulligan who advocated against our School of Law, TWU was never given the opportunity to communicate directly with the LSBC membership. We are confident that the decision of the LSBC cannot ultimately be sustained at law.

While your letter contemplates that a “final determination by the courts” may take years, that is not necessarily the case and, in fact, judicial decisions affirming the rights of TWU’s community may come in ample time.

TWU’s School of Law has been the target of unfair attacks, none of which validly impugn the quality of the JD program or establish that our graduates will be unprepared or unqualified for the practice of law. The Degree Quality Assessment Board and its expert panel recognized this. The Federation of Law Societies of Canada has also recognized this, and a number of law societies have adopted that decision. Even if the LSBC decision is not quickly quashed, our graduates have opportunities to article and practice in other jurisdictions in Canada.

In the result, it is TWU’s submission that there is no proper basis for you to revoke your consent under s.5 of the DAA. Given the lack of any substantive legal basis to revoke your consent, it would not be fair or just in the circumstances to compel TWU to create a new application and seek a new consent in the future. Our JD proposal has been widely recognized as an excellent proposal and there is no basis upon which we should be compelled to commence a new process to seek consent under future, unknown, circumstances. As such, we respectfully request that we be given the time set out in the original consent to deal with the challenges before us.

Sincerely,

A handwritten signature in cursive script that reads "Bob Kuhn". The signature is written in dark ink and is positioned above the printed name and title.

Bob Kuhn, J.D.
President

Culleton, Anita Y AVED:EX

From: Burnett, Teresa M AVED:EX on behalf of Minister, AVED AVED:EX
Sent: Tuesday, December 2, 2014 9:57 AM
To: 'Ann Coats'
Cc: president@ella.ab.ca; Minister, AVED AVED:EX; Przada, Jennifer AVED:EX
Subject: Letter to Minister Virk - Trinity Western University

This is to confirm your e-mail and attached letter has been received.

Office of the Honourable Amrik Virk
Minister of Advanced Education
Ph: (250) 356-0179

From: Ann Coats [<mailto:Ann.Coats@twu.ca>]
Sent: Saturday, November 29, 2014 4:14 AM
To: Minister, AVED AVED:EX; Przada, Jennifer AVED:EX
Cc: president@ella.ab.ca
Subject: FW: Letter to Minister Virk - Trinity Western University

Please confirm receipt.

Ann

ANN COATS

Senior Executive Assistant to the President and Board of Governors | Office of the President
Trinity Western University | t: 604.513.2021 | f: 604.513.2145

From: Ann Coats
Sent: Friday, November 28, 2014 12:31 PM
To: AVED.Minister@gov.bc.ca
Subject: Letter to Minister Virk - Trinity Western University

The attached letter is sent on behalf of Bob Kuhn, President, Trinity Western University. Please confirm that the document has been received.

Kind Regards,

Ann

ANN COATS

Senior Executive Assistant to the President and Board of Governors | Office of the President
Trinity Western University | t: 604.513.2021 | f: 604.513.2145

Culleton, Anita Y AVED:EX

From: Hansen, Erin AVED:EX on behalf of Minister, AVED AVED:EX
Sent: Thursday, December 11, 2014 3:23 PM
To: 'president@twu.ca'
Cc: Carroll, Sandra AVED:EX; Sandstrom, Kurt JAG:EX; 'Ann.Coats@twu.ca'
Subject: Our Ref: 98560 - Ltr from Minister Virk to Robert Kuhn
Attachments: 98560 - Letter to Robert Kuhn TWU.PDF

Please find attached a letter from the Honourable Amrik Virk, Minister of the Ministry of Advanced Education.



Our Ref. 98560

December 11, 2014

Mr. Robert Kuhn, President
Trinity Western University
7600 Glover Road
Langley, BC V2Y 1Y1

Dear Mr. Kuhn:

I write further to your letter of November 28, 2014, providing the submissions of Trinity Western University ("TWU") with respect to whether I should revoke my consent to the proposed law program at TWU under the *Degree Authorization Act* ("DAA").

TWU's primary submission is that I can only revoke or suspend my consent under section 5 of the *DAA* on limited grounds, and that the preconditions for such action do not currently exist.

I do not agree that I am prevented from taking steps at this time to protect the interests of students who may enroll in the proposed law program at TWU only to find they may ultimately be unable to practice law in British Columbia and other Canadian jurisdictions. Section 4(1) of the *DAA* requires me to be satisfied that an applicant meets the published criteria in granting consent. In this case, one of the published criteria (credential recognition) is no longer met given the decisions of provincial law societies not to approve the TWU law faculty. The objective of the *DAA* in protecting students through the quality assurance review would be defeated if I was unable to act on post-consent events that undermine the conditions of consent.

The *DAA* and the terms and conditions of consent anticipate that I will have an on-going monitoring role in ensuring that the interests of students are protected. TWU is obliged by the terms and conditions of consent to advise of substantive changes to a proposed program that may change the scope of consent, and provide information as required including proof of continuing legal and accreditation status, and any variation in status. My role in providing continued oversight would have little meaning if I am unable to act to protect students' interests in the event of a substantive change to an approved program.

.../2

In this case, the reversal by the benchers of the Law Society of British Columbia (subject to TWU's anticipated legal challenge) represents a substantive change to the conditions of the program. Subsequent to my original consent, there have also been decisions of the law societies in Ontario, Nova Scotia and New Brunswick that TWU is not an approved law faculty in those jurisdictions. I appreciate that TWU disagrees with these decisions, is presently challenging the decisions in Ontario and Nova Scotia, and plans to bring a challenge to the decision of the Law Society of BC. However, I consider that it is properly within my mandate under the *DAA* to take steps to protect the interests of students until TWU's legal challenges are finally resolved. There is currently nothing in the terms and conditions of consent to prevent TWU from enrolling students in the proposed law program before the law society challenges are resolved. I do not believe this would be in the interests of students given the current level of legal uncertainty.

You have made the point in your letter of November 28, 2014 that TWU's proposed challenge to the decision of the Law Society of BC may be resolved in "ample time" to allow TWU to meet its obligation to enroll students within three years of the date of consent. I am not persuaded this is realistic. As a practical matter, TWU would be obliged to enroll students for an academic term to begin in the fall of 2016 in order to meet the three-year deadline. This, in turn, would require TWU to accept applications from prospective students many months earlier.

You make the additional point that even if the Law Society of BC's reversal of its approval of the TWU law faculty is affirmed by the courts, TWU graduates may be able to article and practice law in other jurisdictions. This remains to be seen. As matters stand, three other provincial law societies (Ontario, Nova Scotia and New Brunswick) have refused to approve the proposed law faculty at TWU. Depending on the outcome of TWU's legal challenges, it could be that other jurisdictions would follow suit. This highlights the fact that the present level of legal uncertainty puts students at risk in terms of the quality of the proposed law program at TWU. If TWU graduates were unable to practice law in any jurisdiction in Canada, this is obviously a consideration relevant to my consent under the *DAA*. If it turns out that the Law Society of BC is the only regulatory body to withhold its approval, the impact of this decision on the quality assurance process under the *DAA* would still have to be conclusively addressed.

At this point in time, I am not making any final determination as to whether consent for the proposed law program at TWU should be forever refused because of the lack of regulatory body approval. Instead, I am making an interim determination that steps must be taken to protect the interests of prospective students until TWU's legal challenge to the decision of the Law Society of BC (as well as challenges to law societies in other provinces) have been resolved. Your letter of November 28, 2014 included a submission as to the asserted merits of TWU's complaints of the process followed by the benchers of the Law Society of BC in reversing their approval of the TWU law faculty. I make no finding in that respect. The merits of TWU's challenge are for the court to address; my concern is simply to protect the interests of prospective students while the challenge is being pursued.

In the circumstances, it is my decision to revoke my consent for the proposed law program at TWU under the *DAA*. It is open to TWU to resubmit its application for consent once there is certainty and finality as to the status of regulatory body approval. As to your concern that this would require TWU to “create a new application”, that may not be necessary. Depending on the timing and circumstances, it may be open to TWU to request an expedited process.

Finally, I note that counsel for Trevor Loke has invited me (by way of a letter to the Minister’s legal counsel dated November 21, 2014) to review and consider all of the material filed by Mr. Loke in his application for judicial review of my original consent for the TWU law program under the *DAA*. This includes Mr. Loke’s petition, written argument, and 13 affidavits filed in support of the petition. I have reviewed this material, but do not consider it relevant to my reconsideration of the consent. The narrow question I am presented with is how the interests of students may be protected pending a determination by the courts as to whether it is in the public interest to allow TWU graduates to article and practice law in British Columbia and elsewhere. Mr. Loke’s petition material is not of assistance to me on that question.

Sincerely,



Amrik Virk
Minister

pc: Sandra Carroll
Deputy Minister
Ministry of Advanced Education

Kurt Sandstrom
Assistant Deputy Attorney General
Ministry of Justice

Culleton, Anita Y AVED:EX

From: Rogers, Dorothy AVED:EX
Sent: Monday, December 29, 2014 2:13 PM
To: Culleton, Anita Y AVED:EX
Subject: FW: Our Ref: 98560 - Ltr from Minister Virk to Robert Kuhn
Attachments: 98560 - Letter to Robert Kuhn TWU.PDF; ATT00001.htm

From: Rogers, Dorothy AVED:EX
Sent: Friday, December 12, 2014 7:40 AM
To: Mayer, Craig W AVED:EX
Cc: Simmons, Vicki AVED:EX
Subject: FW: Our Ref: 98560 - Ltr from Minister Virk to Robert Kuhn

Hi Craig, Please post.

Thx Dorothy

From: Minister, AVED AVED:EX
Sent: Thursday, December 11, 2014 3:46 PM
To: 'president@twu.ca'
Cc: Carroll, Sandra AVED:EX; Sandstrom, Kurt JAG:EX; 'Ann.Coats@twu.ca'
Subject: Our Ref: 98560 - Ltr from Minister Virk to Robert Kuhn

Please find attached a letter from the Honourable Amrik Virk, Minister of the Ministry of Advanced Education.



Our Ref. 98560

December 11, 2014

Mr. Robert Kuhn, President
Trinity Western University
7600 Glover Road
Langley, BC V2Y 1Y1

Dear Mr. Kuhn:

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Sincerely,



Amrik Virk
Minister

pc: Sandra Carroll
Deputy Minister
Ministry of Advanced Education

Kurt Sandstrom
Assistant Deputy Attorney General
Ministry of Justice

Laberge, Shelly A AVED:EX

From: Brown, Susan B AVED:EX
Sent: Wednesday, December 17, 2014 2:33 PM
To: Laberge, Shelly A AVED:EX
Subject: FW: law school students in BC

As discussed, please PDF for FOI request. Thanks.

Susan Brown
Executive Director, Strategic Policy & Planning
Ministry of Advanced Education
Phone: (250) 387-6193
Fax: (250) 356-8851

From: Brown, Susan B AVED:EX
Sent: Thursday, July 24, 2014 3:10 PM
To: 'Janet Epp-Buckingham'
Subject: RE: law school students in BC

Dear Professor Epp-Buckingham:

Thank you for your note, and my apologies for the delay in responding.

You have asked about three specific universities – University of British Columbia, University of Victoria and Thompson Rivers University – all of which are BC public post-secondary institutions, established under and governed by the *University Act*. Under that legislation, those universities are autonomous institutions. While the Minister of Advanced Education must approve all new degree programs from BC public post-secondary institutions, the Minister must not interfere in the exercise of powers conferred on the university, its board or senate. Therefore, the university has the responsibility for determining matters such as those you have referenced below.

Private and out-of-province public post-secondary institutions are subject to the *Degree Authorization Act*, and the Minister must also approve (provide consent) for all new degree programs through the degree quality assessment process. Once established, the institution could vary its class size. However, if the variation in class size had an impact on the quality of the program, a further quality assessment review could be triggered.

Susan Brown
Executive Director, Strategic Policy & Planning
Ministry of Advanced Education
Phone: (250) 387-6193
Fax: (250) 356-8851

From: Janet Epp-Buckingham [<mailto:Janet.Epp-Buckingham@twu.ca>]
Sent: Thursday, July 17, 2014 2:27 PM
To: Brown, Susan B AVED:EX
Subject: law school students in BC

Hello Ms. Brown,

I am a professor at Trinity Western University and one of the developers of the proposal for a School of Law at the university.

Do the University of British Columbia, the University of Victoria, or Thompson Rivers University require approval or consent of the B.C. Ministry of Advanced Education to increase or decrease the number of students enrolled at their respective law schools?

Thanks very much,

Prof. Buckingham

JANET EPP BUCKINGHAM, LL.B., LL.D.

Director | Laurentian Leadership Centre

Associate Professor | Trinity Western University | janet.epp-buckingham@twu.ca

252 Metcalfe St., Ottawa, ON K2P 1R3

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twu.ca/lc



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Elin R.S. Sigurdson
Direct Line: 604.687.0549, ext. 108
E-mail: esigurdson@jfklaw.ca

November 21, 2014

**VIA EMAIL (Karen.Horsman@gov.bc.ca &
Karrie.Wolfe@gov.bc.ca)**

Ministry of Justice – Civil Litigation
3rd Floor, 1001 Douglas Street
Victoria BC V8W 9J7

File No. 1202-001

Attention: Karen Horsman and Karrie Wolfe

Dear Ms. Horsman and Ms. Wolfe:

Re: Reconsideration of decision to consent to Trinity Western University Law School

Please bring this correspondence to the attention of Minister of Advanced Education, Amrik Virk.

We, along with co-counsel in Toronto (Ruby Shiller Chan Hasan), represent Trevor Loke, the petitioner in judicial review proceedings challenging the decision made by the Minister to consent to the Law Degree Program applied for by Trinity Western University (TWU). [*Trevor Loke v. Minister of Advanced Education of British Columbia*, SCBC Vancouver Registry No. S142908]

Mr. Loke understands that the Minister is reconsidering the consent granted to TWU, and that he will be reviewing further submissions from TWU in the course of that reconsideration.

We ask that the Minister, in conducting his reconsideration, review and consider the following materials already in his possession:

1. The Amended Petition of the Petitioner Trevor James Loke filed June 3, 2014;
2. Affidavit #1 of Trevor James Loke, sworn on April 11, 2014;
3. Affidavit #1 of Preston Parsons, sworn on April 12, 2014;
4. Affidavit #1 of Jill Bishop, sworn on April 9, 2014;
5. Affidavit # 1 of Barry Adam, sworn on April 2, 2014;
6. Affidavit #1 of Mary Bryson, sworn on April 10, 2014;
7. Affidavit #1 of Catherine Taylor, sworn April 9, 2014;
8. Affidavit #1 of Ellen Faulkner, sworn on April 9, 2014;

9. Affidavit #1 of Elise Chenier, sworn on April 14, 2014;
10. Affidavit #1 Cheryl MacKinnon, sworn on April 9, 2014;
11. Affidavit #1 of William Brent Cotter, sworn May 26, 2014;
12. Affidavit #2 of Cheryl MacKinnon, sworn May 28, 2014;
13. Affidavit #2 of William Brent Cotter, sworn August 28, 2014;
14. Affidavit #1 of Anne Macaulay, sworn August 28, 2014;
15. Written argument of the Petitioner Trevor James Loke, filed November 3, 2014.

We urge the Minister to reconsider his decision on the basis of the *Charter* and the public interest consideration that the mandatory nature of the Covenant has the effect of excluding LGBT individuals from attending the School.

Mr. Loke requests that the Minister revoke the consent granted to TWU. In the alternative, Mr. Loke requests that the Minister, as part of a conditional or suspended consent, impose a requirement that TWU must remove the Covenant as an aspect of its law school admission policy before it may offer the law degree program.

If the Minister requires digital copies of the above-noted material, we will be pleased to provide it to him on a CD on request.

Yours truly,
JFK Law Corporation

Per:



Karey Brooks and Elin Sigurdson
KMB/dml
Enclosures

cc: Kevin Boonstra, Legal Counsel for TWU via email (kboonstra@kuhnco.net)