



Our Ref. 95942

October 31, 2013

Laurie Pawlitza, Chair,  
Canadian Common Law Program Approval Committee  
Federation of Law Societies of Canada  
World Exchange Plaza  
1810 - 45 O'Connor Street  
Ottawa, ON K1P 1A4

Dear Ms. Pawlitza:

As you are aware, Trinity Western University (TWU) in British Columbia has submitted a proposal to the Minister of Advanced Education for consent to offer a Juris Doctor degree as a second-entry undergraduate degree. TWU is a faith-based, not-for-profit private university governed under the *Trinity Western University Act*, which authorizes it to grant theological and academic degrees. All new academic degree programs proposed by TWU require consent of the Minister of Advanced Education under the *Degree Authorization Act (DAA)*. The *DAA* requires institutions to undergo a quality assessment process and meet published criteria. Should consent be granted, TWU expects to launch the program in September 2015.

I understand that the Federation of Law Societies of Canada's Canadian Common Law Program Approval Committee has a mandate to determine whether graduates of existing and proposed common law programs will meet the national requirement to practise. Further, I understand that the Federation of Law Societies of Canada has established a Special Advisory Committee on TWU's Proposed School of Law to advise on certain matters related to the TWU.

I would appreciate if you are able to advise on the expected timeline for a decision by the Special Advisory Committee on TWU's proposed degree.

In the meantime, TWU has been advised that its Juris Doctor degree proposal remains under review by the Ministry.

Sincerely,

Sandra Carroll  
Deputy Minister

Distribution list follows

.../2

Ministry of  
Advanced Education

Office of the  
Deputy Minister

Mailing Address:  
PO Box 9884 Stn Prov Govt  
Victoria BC V8W 9T6

Telephone: 250 356-5170  
Facsimile: 250 356-5468

pc: Ms Deborah Wolfe, Managing Director  
National Committee on Accreditation  
Federation of Law Societies of Canada



## Labh, Janet JAG:EX

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**From:** Minister, JAG JAG:EX  
**Sent:** Monday, March 18, 2013 10:29 AM  
**To:** Wallbank, Cindy M JAG:EX  
**Subject:** FW: Letter of Concern Regarding Trinity Western Law School Proposal on Behalf of Law Students and Alumni at the University of British Columbia  
**Attachments:** UBC Letter to the FLSC.pdf

Hi Cindy,

As with previous correspondence on this subject, please redirect to Minister of Advanced Education.  
Many thanks,

Candice

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**From:** Bond.MLA, Shirley [<mailto:Shirley.Bond.MLA@leg.bc.ca>]  
**Sent:** Monday, March 18, 2013 10:09 AM  
**To:** Minister, JAG JAG:EX  
**Subject:** FW: Letter of Concern Regarding Trinity Western Law School Proposal on Behalf of Law Students and Alumni at the University of British Columbia

For your review and response

*Sincerely,*

*Katrina Krenzler*

Constituency Assistant to the Honourable Shirley Bond  
MLA for Prince George - Valemount  
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**From:** Dustin Klaudt [<mailto:> s.22 ]  
**Sent:** March-18-13 9:38 AM  
**To:** [grtremblay@mccarthy.ca](mailto:grtremblay@mccarthy.ca); [jherman@flsc.ca](mailto:jherman@flsc.ca); [dwolfe@flsc.ca](mailto:dwolfe@flsc.ca); [lpawlitza@torkinmanes.com](mailto:lpawlitza@torkinmanes.com); [ghume@harrisco.com](mailto:ghume@harrisco.com)  
**Cc:** [w.flanagan@queensu.ca](mailto:w.flanagan@queensu.ca); [premier@gov.bc.ca](mailto:premier@gov.bc.ca); Bond.MLA, Shirley; Sultan.MLA, Ralph; Dix.MLA, Adrian; Mungall.MLA, Michelle; Bobinski, Mary Anne; [president@twu.ca](mailto:president@twu.ca)  
**Subject:** Letter of Concern Regarding Trinity Western Law School Proposal on Behalf of Law Students and Alumni at the University of British Columbia

Dear Mr. Tremblay, Mr. Herman, Ms. Wolfe, Ms. Pawlitza, and Mr. Hume:

Attached is an advanced copy of correspondence we will be issuing to you in hard copy later this week on behalf of individual students and alumni from the University of British Columbia Faculty of Law.

Please contact us if you experience any difficulty retrieving the 1 PDF attachment to this message. We would also appreciate if you are able to confirm receipt.

Thank you,

--

Dustin W. Klaudt, BCom  
J.D. Candidate (U.B.C. 2013)

March 14, 2013

G rard R. Tremblay, C.M., O.Q., Q.C.,  
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World Exchange Plaza  
1810 – 45 rue O’Connor St.  
Ottawa, Ont. K1P 1A4

Dear Sirs and Mesdames,

**Re: Trinity Western University School of Law Proposal**

We represent a broad coalition of law students and alumni from the University of British Columbia Faculty of Law united in support of Dean Flanagan and the Canadian Council of Law Deans (“CCLD”). We agree with the CCLD position that Trinity Western University’s (“TWU’s”) Community Covenant, which bars its students from “sexual intimacy that violates the sacredness of marriage between a man and a woman,” amounts to discrimination on the basis of sexual orientation, which is unlawful in Canada and fundamentally at odds with the core values of all Canadian law schools.

Most of the criticism to date has focused on the legality of TWU’s Community Covenant. We support that criticism, yet feel we have an additional perspective to add to the discussion. Little has been said about the effect strict adherence to the Covenant would have on the law school experience. This is the focus of our critique.

We are particularly concerned about two damaging effects the Covenant could have: (1) It would exclude sexual minorities, which would diminish diversity of opinion in the legal profession and



impair the development of critical thought and legal analytical skill; (2) It would provide opportunities to access legal education in a discriminatory manner. Such an education confers significant social privileges and queer students should have no less access to it than any other.

The law does not exist in isolation. Learning the law requires some analysis of its social context. As part of our legal education, we are regularly encouraged to bring our own perspectives into our legal analyses, whether based on religion, gender, sexual orientation, or other beliefs, identities, and experiences. This diversity encourages us to challenge, debate, and discuss the law in its broader context. This discourse deepens our understanding of both the law and our role as future members of the legal profession.

It is our concern that the Covenant exemplifies a limited tolerance of diversity. While we are respectful of Christian values, a law school should promote an inclusive environment that is fertile ground for debate. All law schools, and the legal profession as a whole, should strive to promote such an environment.

There is tremendous competition for law school admission. Any additional opportunities to a legal education should not be denied to persons based on their sexual orientation. Sexual minorities still face significant social discrimination. Approving a law school that binds students to the TWU Covenant does nothing to alleviate this disadvantage; indeed it has the potential to exacerbate it.

While TWU is a private university, it is not absolved from its public obligations. Legal education is a public good. The practice of the law is publicly regulated and lawyers are officers of the court - they are compelled to act in the public interest. Law schools are safeguarded by provincial law societies because lawyers have duties to the court and their communities, regardless of where they are trained.

Religious freedom is an important right that will continue to be protected in Canada. However, our concern is that TWU's Community Covenant veils homophobia in Christian values. TWU's policy does not allow for balance between religious freedom and the rights of others to their sexual identity.

We hope TWU reconsiders its position regarding the Community Covenant. It is also our desire to see the province of British Columbia, the Law Society of British Columbia, and the Federation of Law Societies of Canada consider the concerns articulated in our letter throughout all approval processes.

Sincerely,

UBC OUTlaws

UBC Social Justice Action Network

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Cc:

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Hon. Ralph Sultan, Minister of Advanced Education, Innovation, Technology and  
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Adrian Dix, Leader of the Opposition  
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Michelle Mungall, Advanced Education, Youth and Labour Market Development Critic  
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Mary Anne Bobinski, Dean, University of British Columbia Faculty of Law  
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Jonathan Raymond, President, Trinity Western University  
[president@twu.ca](mailto:president@twu.ca)



**Hughes, Candice JAG:EX**

From: Bond.MLA, Shirley [Shirley.Bond.MLA@leg.bc.ca]  
Sent: Friday, March 8, 2013 11:32 AM  
To: Minister, JAG JAG:EX  
Subject: FW: Trinity Western University School of Law Proposal  
Attachments: NAWL letter re TWU's proposed law school 03.08.2013.pdf



For your review and response

Sincerely,

Katrina Krenzler

Constituency Assistant to the Honourable Shirley Bond MLA for Prince George - Valemount

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-----Original Message-----

From: [info@nawl.ca](mailto:info@nawl.ca) [mailto:[info@nawl.ca](mailto:info@nawl.ca)]

Sent: March-08-13 7:51 AM

To: [grtremlay@mccarthy.ca](mailto:grtremlay@mccarthy.ca); [dwolfe@flsc.ca](mailto:dwolfe@flsc.ca); [jherman@flsc.ca](mailto:jherman@flsc.ca); [lpawlitza@torkinmanes.com](mailto:lpawlitza@torkinmanes.com)

Cc: [w.flanagan@queensu.ca](mailto:w.flanagan@queensu.ca); [premier@gov.bc.ca](mailto:premier@gov.bc.ca); Bond.MLA, Shirley; [john.yap.mla@bc.ca](mailto:john.yap.mla@bc.ca);

[president@twu.ca](mailto:president@twu.ca); [legal@westloastleaf.org](mailto:legal@westloastleaf.org)

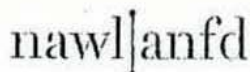
Subject: Trinity Western University School of Law Proposal

Hello - please see attached letter from the National Association of Women and the Law.

Pam Mayhew

Administrator





National Association of Women and the Law / L'association Nationale Femmes et Droit

[www.nawl.ca](http://www.nawl.ca) / [www.anfd.ca](http://www.anfd.ca)

2339 Ogilvie Road - PO Box 46008

Gloucester, ON

K1J 9M7

March 8, 2013

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Ad.E.

President, Federation of Canadian Law  
Societies

By email: [grtremblay@mccarthy.ca](mailto:grtremblay@mccarthy.ca)

Jonathan G. Herman

Chief Executive Officer

Federation of Canadian Law Societies

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Deborah Wolfe, P. Eng.

Managing Director, National Committee on  
Accreditation

Director, Law School Programs, Federation  
Of Canadian Law Societies

By email: [dwolfe@flsc.ca](mailto:dwolfe@flsc.ca)

Laurie H. Pawlitz

Chair, Federation of Canadian Law

Law Societies Canadian Common Law

Program Approval Committee

By email: [lpawlitz@torkinmanes.com](mailto:lpawlitz@torkinmanes.com)

Dear Sirs/Mesdames,

**Re: Trinity Western University School of Law Proposal**

The National Association of Women and the Law ("NAWL") is an incorporated not-for-profit feminist organization that promotes the equality rights of Canadian women through legal education, research and law reform advocacy. We write in relation to Trinity Western University ("TWU")'s proposal to establish a School of Law.

NAWL shares the concern expressed by the Canadian Council of Law Deans and others regarding the intentionally discriminatory impact of TWU's "community covenant agreement" on gay, lesbian and bisexual students. As you are aware, all TWU students and staff are required to sign this covenant, which requires, among other things, abstinence "from sexual intimacy that violates the sacredness of marriage between a man or a woman." As noted in an editorial in the *Globe and Mail*: "[t]his covenant is not simply an expression of belief or a request for certain behaviour...[but] is in effect a bar to gay and lesbian students who are married."<sup>1</sup>

Since the introduction of the *Canadian Charter of Rights and Freedoms*, equality has come to be recognized, not only as a fundamental constitutional right, but as an overarching value in Canadian society. The meaningful realization of this value is something that we continue to struggle to achieve. As the Honourable Justice L'Heureux-Dubé observed close to fifteen years ago: "The task of rooting out inequality and injustice from our society is now advancing to a higher stage...[which requires] that we understand equality and make it part of our thinking, rather than treading heavily on it with the well-worn shoes of unquestioned, and often stereotypical assumptions."<sup>2</sup>

<sup>1</sup> "No gay free law school should stand in Canada" *The Globe and Mail*, 7 February 2013, online: <http://www.theglobeandmail.com/commentary/editorials/no-gay-free-law-school-should-stand-in-canada/article8356107/>.

<sup>2</sup> Honourable Claire L'Heureux-Dubé, "Conversations on Equality" (1999) 26 Man L J 273 at 278-279.



Lawyers have unique powers and obligations in relation to our ongoing struggle to achieve meaningful substantive equality in Canada. As the Federation of Law Societies of Canada's own Model Code of Conduct emphasizes, lawyers have "a special responsibility to respect the requirements of human rights laws in force in Canada, its provinces and territories and, specifically, to honour the obligations enumerated in human rights laws" as well as an obligation not to "discriminate against any person."<sup>3</sup>

A proposal for a "gay free" law school is clearly discriminatory. It is also antithetical to training the next generation of lawyers to live up to their role as guardians of the public interest, which includes protecting and respecting the equality rights of Canadians. It is not sufficient that lawyers simply know where to locate equality protection in various constitutional and statutory instruments; it is necessary, to borrow Justice L'Heureux-Dubé's words, that they "understand equality and make it part of [their] thinking." An educational institution that not only perpetuates discriminatory attitudes towards, but also effectively bans members of an equality-seeking group from attendance, cannot be trusted to promote this constitutionally mandated understanding.

For these reasons, NAWL joins West Coast LEAF in urging the Federation to reject TWU's application. In the event that the British Columbia government decides to accredit TWU to confer law degrees, notwithstanding the equality rights infringement such a decision would represent, NAWL also joins West Coast LEAF in insisting that the Federation should not permit graduates to become licensed to practice law without further study and entrance requirements.

The following passage from the Supreme Court of Canada in *Vriend v. Alberta* is particularly resonant in these circumstances:

It is easy to praise [the concept and principle of equality] as providing the foundation for a just society which permits every individual to live in dignity and in harmony with all. The difficulty lies in giving real effect to equality. Difficult as the goal of equality may be it is worth the arduous struggle to attain.<sup>4</sup>

The Federation has proudly and repeatedly announced that it has a mandate to serve in the public interest. We believe that taking a forceful and pro-active stance against TWU's proposal for a School of Law is not only consistent with this mandate, but is also required.

Yours truly,



JULIE SHUGARMAN  
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National Association of Women and the Law  
613.612.5859  
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<sup>3</sup> Federation of Law Societies of Canada, *Model Code of Professional Conduct* (as amended 12 December 2012), rule 6.3-5, online: <http://www.flsc.ca/en/federation-model-code-of-professional-conduct/>

<sup>4</sup> *Vriend v. Alberta*, [1998] 1 SCR 493 at para 68.



cc:

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Laura Track, Legal Director  
West Coast Leaf

## Hughes, Candice JAG:EX

**From:** Bond.MLA, Shirley [Shirley.Bond.MLA@leg.bc.ca]  
**Sent:** Tuesday, February 5, 2013 1:41 PM  
**To:** Minister, JAG JAG:EX  
**Subject:** FW: Trinity Western University's Proposed Law School  
**Attachments:** WCL Letter to Federation of Law Societies re TWU.pdf

For your review and response

*Sincerely,*

*Katrina Krenzler*

Constituency Assistant to the Honourable Shirley Bond  
MLA for Prince George - Valemount

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**From:** Laura Track [<mailto:legal@westcoastleaf.org>]

**Sent:** February-05-13 12:09 PM

**To:** [gtrtreblay@mccarthy.ca](mailto:gtrtreblay@mccarthy.ca); [dwolfe@flsc.ca](mailto:dwolfe@flsc.ca); [jherman@flsc.ca](mailto:jherman@flsc.ca); [lpawlitza@torkinmanes.com](mailto:lpawlitza@torkinmanes.com)

**Cc:** [w.flanagan@queensu.ca](mailto:w.flanagan@queensu.ca); Bond.MLA, Shirley; Yap.MLA, John; [president@twu.ca](mailto:president@twu.ca)

**Subject:** Trinity Western University's Proposed Law School

Dear Sirs/Mesdames

Please find attached a letter from West Coast LEAF regarding Trinity Western University's proposed law school.

Regards,

Laura Track

Laura Track

Legal Director  
West Coast Women's Legal Education & Action Fund

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West Coast LEAF's mandate is to achieve equality by changing historic patterns of systemic discrimination against women through BC-based equality rights litigation, law reform and public legal education. Please invest in women's equality by making a tax-deductible donation at: [www.canadahelps.org](http://www.canadahelps.org)

*Although we do our best to keep up to date on legal developments, since the law changes so often, West Coast LEAF cannot guarantee the legal accuracy or completeness of the contents of this email. Any information provided is for general knowledge only. It is not meant to be used as legal advice for specific legal problems. If you need legal help, please contact a lawyer or advocate.*



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February 5, 2013

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Dear Sirs/Mesdames,

**Re: Trinity Western University's Proposed Law School**

The Federation of Law Societies of Canada (the Federation) has been asked to approve an application for a law degree program at Trinity Western University (TWU). We write to urge the Federation to reject the application due to TWU's discrimination against gays and lesbians in its hiring and admissions policies. These discriminatory policies make TWU unfit to prepare students for their role in upholding the rule of law and the human rights and equality principles that underlie our legal system in their careers as lawyers.

In the event that the BC government decides to accredit TWU to confer law degrees, it is our position that the Federation should not permit graduates to become licensed to practice law upon completion of their degree, bar exams and articles. At the very least, the Federation should require TWU law graduates to undertake additional study and meet entrance requirements set by the Federation's National Committee on Accreditation, similar to the process for foreign trained lawyers. The study and entrance requirements must be rigorous,



substantive and comprehensive in order to compensate for the shortcomings of a law program offered by an institution that unapologetically discriminates against gays and lesbians.<sup>1</sup>

### ***TWU's Discriminatory Policies***

TWU is a Christian university and describes itself as "an arm of the church." All students, faculty and staff are required to pledge "acceptance of the Bible as the divinely inspired, authoritative guide for personal and community life." The University's programs are established and implemented on the basis that scripture "must be the final and ultimate standard of truth, the reference point by which every other claim to truthfulness is measured." Academic faculty are required annually to sign a statement of faith, which requires them to "agree with and agree to support at all times the position" that the bible is "the ultimate authority by which every realm of human knowledge and endeavour should be judged."

All TWU students and staff must sign a "community code of conduct" pledging, among other things, not to engage in same-sex sexual intimacy. Applicants who do not make this pledge will not be hired or admitted to the University; breach of the pledge by those who do sign it can result in dismissal from the University.

The requirement that prospective students and staff must agree to abstain from same-sex sexual activity discriminates against gays and lesbians. The Supreme Court of Canada, which considered TWU's policies in a 2001 case challenging the University's ability to set up a teacher's college, found that the policies create "unfavourable differential treatment" on the basis of sexual orientation.<sup>2</sup> The majority of the Court found that "a homosexual student would not be tempted to apply for admission, and could only sign the so-called student contract at a considerable personal cost."<sup>3</sup> While the discriminatory policies were found not to be unlawful because of the religious exemption provided to the University by section 41 of the *BC Human Rights Code*, the Court held that if a public university or government actor adopted TWU's policies, it would violate the equality rights protected by human rights legislation and the *Canadian Charter of Rights and Freedoms*.

### ***The Federation's Role in Promoting the Public Interest, Professionalism and Ethics***

The Federation of Law Societies acts as the gatekeeper to the profession of law in Canada. Its mission is to act in the public interest by "promoting the cause of justice and the Rule of Law" in a manner that is "focused on the public interest", "responsible and accountable" and

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<sup>1</sup> A comprehensive legal analysis supporting such a decision is provided by Professor Elaine Craig, "The case for the Federation of Law Societies rejecting Trinity Western University's proposed law degree program" (2013) 25(1) C.J.W.L.

<sup>2</sup> *Trinity Western University v. British Columbia College of Teachers*, [2001] 1 S.C.R. 772.

<sup>3</sup> *Ibid.* at para. 25.



"consistent with the highest standards of professionalism, excellence, ethics and good governance."<sup>4</sup>

The Federation is tasked with ensuring that all Canadian law schools comply with a national standard, which specifies the "competencies in basic skills, awareness of appropriate ethical values and core legal knowledge that law students can reasonably be expected to have acquired during the academic component of their education."<sup>5</sup>

In West Coast LEAF's submission, it is not in the public interest to train future lawyers in an institution governed by policies that discriminate on the basis of sexual orientation. To approve a law school with policies that would violate human rights law if implemented by any of Canada's other law schools does not advance the Federation's mission of "promoting the cause of justice and the Rule of Law". In our view, it would be incompatible with the Federation's mandate to act in the public interest and pursue the highest standards of professionalism and ethics for it to approve a TWU law degree.

The Federation's national standard states that "ethics and professionalism lie at the core of the legal profession," and the Federation "places particular emphasis on the need for law school graduates who seek entry to law society admission programs to have an understanding of ethics and professionalism."<sup>6</sup> As part of its ethics and professionalism requirements, the Federation requires students to demonstrate "an awareness and understanding of the ethical dimensions of the practice of law in Canada and an ability to identify and address ethical dilemmas in a legal context", which includes "an ability to identify and engage in critical thinking about ethical issues in legal practice".<sup>7</sup>

One of the ethical and professional duties of Canadian lawyers is the duty not to discriminate. The Federation's Model Code of Conduct states that "A lawyer must not discriminate against any person," and emphasizes that "A lawyer has a special responsibility to respect the requirements of human rights laws in force in Canada, its provinces and territories and, specifically, to honour the obligations enumerated in human rights laws."<sup>8</sup> In our submission, a law school with policies that exclude gays and lesbians and, in the words of the Supreme Court of Canada, create "unfavourable differential treatment" on the basis of sexual orientation cannot impart on prospective lawyers a sufficient understanding of the ethical duty not to discriminate and to honour the obligations enumerated in human rights laws.

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<sup>4</sup> Federation of Law Societies of Canada, Mission and Values Statement, online: <<http://www.flsc.ca/en/our-mission/>>.

<sup>5</sup> Federation of Law Societies of Canada, *Task Force on the Canadian Common Law Degree: Final Report*, (October 2009), online: <[http://www.flsc.ca/\\_documents/Common-Law-Degree-Report-C.pdf](http://www.flsc.ca/_documents/Common-Law-Degree-Report-C.pdf)>.

<sup>6</sup> Federation of Law Societies of Canada, *Common Law Degree Implementation Committee: Final Report* (August 2011) at 15, online: <[http://www.flsc.ca/\\_documents/Implementation-Report-ECC-Aug-2011-R.pdf](http://www.flsc.ca/_documents/Implementation-Report-ECC-Aug-2011-R.pdf)>.

<sup>7</sup> Ibid.

<sup>8</sup> Federation of Law Societies of Canada, *Model Code of Professional Conduct* (as amended 12 December 2012), rule 6.3-5 at 100, online: <[http://www.flsc.ca/\\_documents/ModelCodeRevDec2012TDBL.pdf](http://www.flsc.ca/_documents/ModelCodeRevDec2012TDBL.pdf)>.

The *Charter*, as well as human rights legislation in every Canadian province, prohibits discrimination on the basis of sexual orientation. Equality, specifically protected by sections 15 and 28 of the *Charter*, underlies all of the *Charter's* rights protections and is a fundamental component of the rule of law. The Federation's decision whether to approve a law degree from TWU must be consistent with *Charter* values. In West Coast LEAF's view, a proper balancing of the right to freedom of religion, the right to equality, and the Federation's mandate to protect the public interest demands that the Federation reject TWU's application and, at the very least, mandate rigorous additional study and entrance requirements for prospective TWU law school graduates.

Thank-you for considering our submission. We would be pleased to discuss this issue further, if that would be helpful.

Yours truly,



Laura Track  
Legal Director

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Pages 21 through 291 redacted for the following reasons:

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