

Pages 1 through 7 redacted for the following reasons:

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## **Jothen, Janet M AVED:EX**

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**From:** Jothen, Janet M AVED:EX  
**Sent:** Thursday, February 20, 2014 7:46 AM  
**To:** Simmons, Vicki AVED:EX  
**Subject:** RE: Juris Doctor forms

Yes, will do.

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**From:** Simmons, Vicki AVED:EX  
**Sent:** Thursday, February 20, 2014 7:45 AM  
**To:** Jothen, Janet M AVED:EX  
**Cc:** Mayer, Craig W AVED:EX; Rogers, Dorothy AVED:EX  
**Subject:** FW: Juris Doctor forms

Hi Janet,

Can you please post the letter and the T&C to PSIPS?

Thanks,  
Vicki

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### **Vicki Simmons**

Senior Policy Analyst  
Governance and Quality Assurance Branch  
BC Ministry of Advanced Education

3rd Floor, 835 Humboldt St  
PO Box 9883 Stn Prov Govt  
Victoria BC V8W 9T6  
(T) 250-356-2067 | (F) 250-387-3750 | (E) [vicki.simmons@gov.bc.ca](mailto:vicki.simmons@gov.bc.ca)

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**From:** AVED Degree Quality Assessment Board Secretariat AVED:EX  
**Sent:** Thursday, February 20, 2014 7:28 AM  
**To:** Rogers, Dorothy AVED:EX; Simmons, Vicki AVED:EX  
**Subject:** FW: Juris Doctor forms

fyi

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**From:** Elsie Froment [<mailto:Elsie.Froment@twu.ca>]  
**Sent:** Wednesday, February 19, 2014 2:59 PM  
**To:** AVED Degree Quality Assessment Board Secretariat AVED:EX  
**Subject:** RE: Juris Doctor forms

Craig,

The Juris Doctor signed Terms and Conditions are attached. We are sending the originals to you by courier.

Thank you for your help with this process.

Elsie

**From:** AVED Degree Quality Assessment Board Secretariat AVED:EX [<mailto:DQABsecretariat@gov.bc.ca>]  
**Sent:** January-28-14 12:28 PM  
**To:** Elsie Froment  
**Subject:** Juris Doctor forms

Hi Elsie - in response to your inquiry to Vicki Simmons, please find attached the two documents that require your institution's signature as referenced in the Minister's letter (Special Terms and Conditions of Consent and Standard Terms and Conditions of Consent). Once we receive these signed forms we can then move the JD submission from Under Review to Ministerial Consent.

If you wish to fax these, our number is 250-387-3750 (attention myself or Vicki).

Thank you, Craig

Craig Mayer  
Governance and Quality Assurance  
Ministry of Advanced Education  
250-387-1138  
[Craig.Mayer@gov.bc.ca](mailto:Craig.Mayer@gov.bc.ca)

## SPECIAL TERMS AND CONDITIONS OF MINISTERIAL CONSENT

**Name of Institution:** Trinity Western University

**Consent for:** Juris Doctor

The following special terms and conditions are attached to the consent from the Minister of Advanced Education under section 4(3) of the *Degree Authorization Act*.

- 1) **Consent period:** The consent period will be five years.
- 2) **Prior Commitments:** The institution must implement the agreed to conditions made in its response of May 17, 2013 to the expert panel's report.
- 3) **Faculty:** The institution must hire qualified faculty with the necessary qualifications for the degree being offered.
- 4) **Approval:** The institution will be able to admit students into the program based on approval received from the Federation of Law Societies of Canada in December 2013.
- 5) **Reporting:** The institution must provide a report to the Board on the status of faculty recruitment and regulatory body approval prior to launching the program.
- 6) **Misrepresentation or malfeasance:** The minister may deny, suspend, or revoke consent, where the following has taken place, or was taking place, at any time during or after the consent process until such time as the minister is satisfied that the situation has been remedied:
  - information provided for reviews was not truthful and complete; and/or,
  - misrepresentations, falsehood, fraud, abuse, or charges pending against the institution or its staff members for violations of law had occurred, or was occurring.

I acknowledge that I understand the terms and conditions attached to consent, that all information provided in the application is true, and that I agree to comply with all representations made during the course of the application, and with the terms and conditions of consent.

W. Robert Wood

Name of authorized representative

Provost

Position at the Institution

[Signature]

Signature

Feb 12 / 14

Date



## TERMS AND CONDITIONS OF MINISTERIAL CONSENT

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**Name of Institution:** Trinity Western University

**Consent for:** Juris Doctor

The following standard terms and conditions are attached to the consent from the Minister of Advanced Education under section 4(3) of the *Degree Authorization Act*.

- 1) **Consent period:** The consent period will normally be five years.
- 2) **Scope of consent:** Consent will be specific to the activity, program (major and minor, if specified) and site described in the submitted application.

The consent holder must inform the minister before implementation of any material change in circumstance (i.e., ownership change, location change, material change in learning outcomes, the minimum qualifications of faculty), or of substantive changes (i.e., termination or suspension of programs that have consent), which may change the scope of consent.

- 3) **Consent not transferable:** A consent is not transferable.
- 4) **Notice for students and public:** The following must appear in the consent holder's current calendar, and in the student's enrolment contract:

*This program is offered under the written consent of the Minister of Advanced Education effective (consent date) having undergone a quality assessment process and been found to meet the criteria established by the minister. Nevertheless, prospective students are responsible for satisfying themselves that the program and the degree will be appropriate to their needs (for example, acceptable to potential employers, professional licensing bodies, or other educational institutions).*

- 5) **Advertising:** A consent holder must not use any term or phrase in advertising that refers to approval of the minister or the Government of British Columbia other than that the program is offered under the written consent of the minister.
- 6) **Program Implementation:** The consent holder must enroll students in the degree program within three years from the date of consent. If the degree program is not offered within the three-year time period, consent is automatically revoked.
- 7) **Reporting:** A consent holder must provide the following information to the minister when requested:
  - if accredited in another jurisdiction, proof of continuing legal and accreditation status, and any variation in status;
  - A report on the current academic standards for each degree program for which consent has been granted, including but not limited to:
    - number and percentage of teaching staff/faculty by level of education, professional designations and experience;

## TERMS AND CONDITIONS OF MINISTERIAL CONSENT

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- number of full time equivalent (FTE) degree students per full time equivalent (FTE) teaching staff/faculty;
  - the institution's annual report (including audited financial statement);
  - the institution's most recent calendar;
  - tuition and related fees for the degree programs for which consent has been granted;
  - student full time equivalent (FTE) enrolment in programs by year, for which consent has been granted;
  - number of degrees granted in the previous year for programs for which consent has been granted;
  - student attrition and retention rates;
  - job placement rates (both direct and indirect);
  - employer satisfaction;
  - student satisfaction;
  - number and nature of transfer agreements entered into the previous year regarding programs for which consent has been granted; and
  - other performance measures requested by the minister.
- 8) **Entitlement of consent holder to government funding:** Ministerial consent does not entitle the consent holder to funding from the government of British Columbia.
- 9) **Revocation and suspension of consent:**  
A consent holder's failure to comply with any terms and conditions or any legislative obligation may lead the minister to amend, suspend or revoke consent. The Degree Quality Assessment Board may also recommend that the minister amend, suspend or revoke consent as a result of a comprehensive review which determined that the quality of the degree program had not been maintained.
- 10) **Financial security:** The consent holder must meet conditions established regarding the security of tuition fees. These are outlined in the Degree Authorization Regulations established pursuant to Section 9(1) of the *Degree Authorization Act*.
- 11) **Access to and security of student transcripts:** The consent holder must meet the requirements regarding the access to and security of student transcripts established under Section 4(4) of the *Degree Authorization Act*.
- 12) **Student contracts:** A consent holder must have an enrolment contract for students enrolling in degree programs. The student's obligation under the contract must not exceed a period of 12 consecutive months. The contract must include the following:
- the title of the program and name of degree;
  - the start date and end date;
  - policies on student withdrawal and refund of fees and charges; and
  - the statement required under term and condition #4.



## TERMS AND CONDITIONS OF MINISTERIAL CONSENT

13) **Awareness of policies affecting students:** A consent holder must have a calendar or other comparable publication available to students and the public setting forth the following:

- admissions requirements and procedures;
- programs and courses with indication of when they are offered;
- rules and regulations for student, faculty and employee conduct;
- degree completion requirements;
- method of course delivery;
- tuition and other fees;
- transfer arrangements currently in place. If the consent holder has no credit transfer arrangements in place, the consent holder must indicate that no such arrangements exist.

14) **Misrepresentation or malfeasance:** The minister may deny, suspend, or revoke consent, where the following has taken place, or was taking place, at any time during or after the consent process until such time as the minister is satisfied that the situation has been remedied:

- information provided for reviews was not truthful and complete; and/or,
- misrepresentations, falsehood, fraud, abuse, or charges pending against the institution or its staff members for violations of law had occurred, or was occurring.

I acknowledge that I understand the terms and conditions attached to consent, that all information provided in the application is true, and that I agree to comply with all representations made during the course of the application, and with the terms and conditions of consent.

W. Robert Wool  
Name of authorized representative

Provost  
Position at the Institution

hs  
Signature

Feb 19/14  
Date

## **Rogers, Dorothy AVED:EX**

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**From:** AVED Degree Quality Assessment Board Secretariat AVED:EX  
**Sent:** Thursday, February 20, 2014 2:49 PM  
**To:** 'Elsie Froment'  
**Subject:** RE: Juris Doctor forms

Thank you Elsie. The consent is now listed in the proposal system.  
Craig

---

**From:** Elsie Froment [<mailto:Elsie.Froment@twu.ca>]  
**Sent:** Wednesday, February 19, 2014 2:59 PM  
**To:** AVED Degree Quality Assessment Board Secretariat AVED:EX  
**Subject:** RE: Juris Doctor forms

Craig,

The Juris Doctor signed Terms and Conditions are attached. We are sending the originals to you by courier.

Thank you for your help with this process.

Elsie

**From:** AVED Degree Quality Assessment Board Secretariat AVED:EX [<mailto:DQABsecretariat@gov.bc.ca>]  
**Sent:** January-28-14 12:28 PM  
**To:** Elsie Froment  
**Subject:** Juris Doctor forms

Hi Elsie - in response to your inquiry to Vicki Simmons, please find attached the two documents that require your institution's signature as referenced in the Minister's letter (Special Terms and Conditions of Consent and Standard Terms and Conditions of Consent). Once we receive these signed forms we can then move the JD submission from Under Review to Ministerial Consent.

If you wish to fax these, our number is 250-387-3750 (attention myself or Vicki).

Thank you, Craig

**Craig Mayer**  
**Governance and Quality Assurance**  
**Ministry of Advanced Education**  
**250-387-1138**  
[Craig.Mayer@gov.bc.ca](mailto:Craig.Mayer@gov.bc.ca)



## MacLean, Madeline AVED:EX

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**From:** Minister, AVED AVED:EX  
**Sent:** Monday, February 24, 2014 9:40 AM  
**To:** AVED MCRU Incoming Corresp Working Box AVED:EX  
**Cc:** Robson, William AVED:EX; Gill, Manjit AVED:EX  
**Subject:** Cliff 96705 - FW: Copy of Correspondence to Law Societies Concerning TWU  
**Attachments:** 2014 02 24 LGBTQ Law Student Leaders Letter to AB Benchers.pdf; 2014 02 24 LGBTQ Law Student Leaders Letter to BC Benchers.pdf; 2014 02 24 LGBTQ Law Student Leaders Letter to MB Benchers.pdf; 2014 02 24 LGBTQ Law Student Leaders Letter to NB Benchers.pdf; 2014 02 24 LGBTQ Law Student Leaders Letter to NL Benchers.pdf; 2014 02 24 LGBTQ Law Student Leaders Letter to NS Benchers.pdf; 2014 02 24 LGBTQ Law Student Leaders Letter to NT Benchers.pdf; 2014 02 24 LGBTQ Law Student Leaders Letter to NU Benchers.pdf; 2014 02 24 LGBTQ Law Student Leaders Letter to PE Benchers.pdf; 2014 02 24 LGBTQ Law Student Leaders Letter to SK Benchers.pdf; 2014 02 24 LGBTQ Law Student Leaders Letter to YT Benchers.pdf

**Categories:** Info/File, Minister

Please info/file as per the following:

Branch: Gov & QA

Issue: TWU

**From:** Douglas W. Judson<sup>s.22</sup>  
**Sent:** Sunday, February 23, 2014 11:33 PM  
**Subject:** Copy of Correspondence to Law Societies Concerning TWU

To Whom It May Concern -

You are receiving this message because you are listed as a copy recipient on the attached correspondence. Please accept this transmission as your copy.

The attached letters concern Trinity Western University's proposed law school. The letters were co-signed by LGBTQA affinity groups at 15 of Canada's law schools, and were issued to each provincial law society (except Ontario - the Ontario groups issued similar correspondence to the Law Society of Upper Canada last month).

Should you experience any difficulty retrieving any of the 11 PDF attachments to this message, please feel free to contact me.

Sincerely,

Douglas W. Judson, BSocSc, BCom (Hon.)  
Candidate, JD / MBA (2015)  
Osgoode Hall Law School & Schulich School of Business, York University  
s.22



February 24, 2014

Law Society of Alberta  
Suite 800, Bell Tower  
10104 103 Avenue  
Edmonton, Alberta T5J 0H8

Dear President Feth, President-Elect Eamon, and Benchers:

We are writing in our capacities as leaders of LGBTQ affinity groups and organizations at Canadian law schools regarding Trinity Western University's (TWU's) proposed law school. TWU's program is currently seeking the approval of the provincial law societies for admission to the bar of each jurisdiction. In your jurisdiction, this accreditation process falls within the authority of the Law Society of Alberta (LSA). We have serious reservations about TWU's discriminatory policies towards LGBTQ students and the suitability of TWU as a forum to train future lawyers. We urge you to refuse or qualify TWU's accreditation. We also encourage you to advance an accreditation requirement in your province that prevents any accredited law school from discriminating on a constitutionally protected ground, such as sexual orientation.

Central to our concerns is the fact that TWU forces its students to sign a 'Community Covenant Agreement' requiring the student to abstain from "sexual intimacy that violates the sacredness of marriage between a man and a woman".<sup>1</sup> Students who do not comply with the agreement may be removed from the university without readmission.<sup>2</sup> The Community Covenant Agreement is inconsistent with the *Charter of Rights and Freedoms* and provincial human rights legislation. Accrediting a legal studies program that operates under this policy fetters the profession's obligation to serve the public interest.

Over the past year, a number of prominent stakeholders have echoed this sentiment. These include the Canadian Council of Law Deans,<sup>3</sup> the Canadian Bar Association,<sup>4</sup> the Canadian Federation of Students,<sup>5</sup> numerous prominent lawyers and academics, law school faculty councils,<sup>6</sup> editorial boards,<sup>7</sup> and over one thousand law students.<sup>8</sup> They have rightly pointed out that TWU's policies place a de facto quota on the number of law school places available to LGBTQ students. More broadly, they assert that given these discriminatory operating policies, TWU is not an appropriate venue for teaching constitutional law, nurturing

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<sup>1</sup> Trinity Western University Community Covenant Agreement at page 3, available online: <[http://twu.ca/studenthandbook/twu\\_community\\_covenant\\_agreement.pdf](http://twu.ca/studenthandbook/twu_community_covenant_agreement.pdf)>

<sup>2</sup> Trinity Western University Student Handbook, Student Accountability Process, available online: <[http://twu.ca/studenthandbook/university\\_policies/student\\_accountability\\_process.html](http://twu.ca/studenthandbook/university_policies/student_accountability_process.html)>

<sup>3</sup> Canadian Council of Law Deans Letter to the Federation of Law Societies of Canada, November 20, 2012, available online: <[http://www.scribd.com/doc/156263670/CCLD\\_Letter\\_to\\_FLSC](http://www.scribd.com/doc/156263670/CCLD_Letter_to_FLSC)>

<sup>4</sup> Canadian Bar Association Letter to the Federation of Law Societies of Canada, March 18, 2013, available online: <[http://www.scribd.com/doc/156265274/CBA\\_Letter\\_to\\_FLSC](http://www.scribd.com/doc/156265274/CBA_Letter_to_FLSC)>

<sup>5</sup> Canadian Federation of Students Letter to the Federation of Law Societies of Canada, December 19, 2013, available online: <[http://cfs.fcee.ca/open\\_letter\\_reconsider\\_approval\\_of\\_law\\_school\\_at\\_trinity\\_western\\_university/](http://cfs.fcee.ca/open_letter_reconsider_approval_of_law_school_at_trinity_western_university/)>

<sup>6</sup> Four law school faculty councils have passed motions condemning the Community Covenant Agreement: Osgoode (<http://bit.ly/1ICEL16>), Queen's (<http://bit.ly/1e7xLrj>), UBC (<http://bit.ly/1laMBSW>), and Dalhousie (<http://bit.ly/1f1QgX2>). Faculty from Alberta's 2 law schools have also expressed their concerns in an open letter (<http://bit.ly/1f1YkL6>).

<sup>7</sup> The Globe and Mail, *Trinity Western should emulate its U.S. equivalents*, July 25, 2013, available online: <[http://www.theglobeandmail.com/globe\\_debate/editorials/trinity\\_western\\_should\\_emulate\\_its\\_us\\_equivalents/article13441598/](http://www.theglobeandmail.com/globe_debate/editorials/trinity_western_should_emulate_its_us_equivalents/article13441598/)>

<sup>8</sup> Osgoode Hall Law School Students' Letter to the Federation of Law Societies of Canada, March 18, 2013, available online: <[http://www.scribd.com/doc/156265623/Letter\\_from\\_Osgoode\\_Law\\_Students\\_to\\_the\\_FLSC](http://www.scribd.com/doc/156265623/Letter_from_Osgoode_Law_Students_to_the_FLSC)>; Media Release from Canadian Law Students, March 18, 2013, available online: <[http://www.scribd.com/doc/156265623/Letter\\_from\\_Osgoode\\_Law\\_Students\\_to\\_the\\_FLSC](http://www.scribd.com/doc/156265623/Letter_from_Osgoode_Law_Students_to_the_FLSC)>

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legal ethics, or promoting academic freedom. Our agreement with these views is underscored by the fact that many of our LGBTQ peers have been subjected to systemic discrimination, exclusion, and hatred related to their sexual orientation. It would be tremendously disheartening to see the profession's leadership support policies which perpetuate these unfortunate experiences and constrain access to legal education for LGBTQ individuals. Institutionalizing the targeted humiliation of LGBTQ individuals is unacceptable.

The professional community turns to the law society for leadership and governance on these important issues. To date, it has been disappointing to see some law societies remain silent on this issue - deferring to Federation of Law Societies of Canada (FLSC). In December, it was with profound disbelief that we learned of the FLSC's recommendation that their provincial members approve TWU's law school. This was, in effect, a rubber stamp for discrimination: TWU's discriminatory covenant stands in direct opposition to the significant progress that has been made in the recognition of the rights of LGBTQ individuals over the past decade.

Further, the FLSC's protracted and closed-door process was patently not in the public interest – contrary to the mandate of the LSA. Notably, there was no opportunity for anyone to present evidence of discrimination by TWU, or the effect of its covenant on LGBTQ faculty or students, even though the absence of such evidence was a key finding on which the committee relied to recommend that the proposed law school be recognized by the FLSC's members. Perpetuating the flawed process, B.C.'s Minister of Advanced Education relied heavily on the FLSC's decision to justify his own, approving the degree-granting program the day after the FLSC report was released.

In 2014, the FLSC's decision offends more than contemporary Canadian sensibilities. Our understanding is that it is also legally incorrect:

- First, the FLSC relies heavily on a 2001 Supreme Court of Canada (SCC) judgment in a case involving TWU and the B.C. College of Teachers.<sup>9</sup> Although this precedent cannot be ignored, over the last 12 years the law has transformed. The 2013 case of *Whatcott*<sup>10</sup> departs from the 2001 *Trinity Western* decision in important ways, notably by wholly rejecting the “hate the sin, love the sinner” excuse adopted by TWU to continue its discrimination in 2001. An institution cannot ban “sexual intimacy that violates the sacredness of marriage between a man and a woman” (i.e., sex between LGBTQ individuals) without effectively banning LGBTQ individuals. The effect of the covenant is to exclude anyone who lives in a committed same-sex relationship, which is an issue that was completely overlooked in the 2001 SCC decision.
- Second, the 2012 SCC decision in *Doré*<sup>11</sup> now imposes an obligation on law societies to apply the *Charter* and provincial and territorial human rights codes every time they make a decision. The B.C. College of Teachers was under no such obligation in 2001. In practice, this means that private religious organizations can adopt membership rules that reflect their beliefs, but the government and other organizations operating in the public interest are not bound to approve such rules if they discriminate against individuals.

Such significant inconsistencies should prompt LSA to heavily scrutinize the FLSC recommendation.

The law schools we attend have made a priority of making legal education more accessible, practical, and representative of Canadian society. The leadership of the Alberta profession should demonstrate the same interests in rendering their decision on TWU's accreditation. As future lawyers, we are committed to equality and promoting the values of the *Charter* within our practices. Our experiences have taught us that such professional standards can only be fostered in a learning environment that enshrines these values in policy and practice.

At the most basic level, it is unjust to open a law school that openly discriminates against a vulnerable segment of the Canadian public. We strongly recommend that you oppose or place conditions on TWU's LSA

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<sup>9</sup> *Trinity Western University v British Columbia College of Teachers*, 2001 SCC 31, available online: <[http://scc.csc.lexum.com/decisia\\_scc\\_csc/scc\\_csc/scc\\_csc/en/item/1867/index.do](http://scc.csc.lexum.com/decisia_scc_csc/scc_csc/scc_csc/en/item/1867/index.do)>

<sup>10</sup> *Saskatchewan (Human Rights Commission) v Whatcott*, 2013 SCC 11, available online: <[http://scc.csc.lexum.com/decisia\\_scc\\_csc/scc\\_csc/scc\\_csc/en/12876/1/document.do](http://scc.csc.lexum.com/decisia_scc_csc/scc_csc/scc_csc/en/12876/1/document.do)>

<sup>11</sup> *Doré v Barreau du Québec*, 2012 SCC 12, available online: <<http://www.canlii.org/en/ca/scc/doc/2012/2012scc12/2012scc12.pdf>>

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accreditation. We look forward to a properly balanced and progressive decision from the law society on this important issue, and appreciate this opportunity to provide input to the process. Should you wish to correspond with us as a group, please email [outlawscanada@gmail.com](mailto:outlawscanada@gmail.com).

Sincerely,

Christine Wilson, JD Candidate (2015)  
Shad Turner, JD Candidate (2015)  
*President & Vice President*  
**OUTlaw Alberta**  
**University of Alberta Faculty of Law**  
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*President*  
**Schulich OUTlaw Society**  
**Schulich School of Law, Dalhousie University**  
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Room 15, Chancellor Day Hall, 3644 Peel Street, Montreal, QC, H3A 1W9; dean.law@mcgill.ca

Kimberley Brooks, Dean, Schulich School of Law, Dalhousie University,  
Weldon Law Building, 6061 University Avenue, P.O. Box 15000, Halifax, NS, B3H 4R2; lawdean@dal.ca

John R. Williamson, Interim Dean, Faculty of Law, University of New Brunswick,  
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Lorna Turnbull, Dean, Faculty of Law, University of Manitoba,  
Room 301A, Robson Hall, 224 Dysart Road, Winnipeg, MB, R3T 2N2; Lorna.Turnbull@umanitoba.ca

Jeremy Webber, Dean, Faculty of Law, University of Victoria,  
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Allard Hall, 1822 East Mall, Vancouver, BC, V6T 1Z1; bobinski@law.ubc.ca

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Bill Flanagan, President, Canadian Council of Law Deans,  
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The Honourable Amrik Virk, Minister of Advanced Education (BC),  
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Lisa Marie Barnet, President, Young Lawyers' Division, Canadian Bar Association,  
Ontario Power Authority, 1600-120 Adelaide St W, Toronto, ON, M5H 1T1; lisa\_barnet@hotmail.com

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408 Legislature Building, 10800 97 Avenue, Edmonton, AB, T5K 2B6; edmonton.whitemud@assembly.ab.ca

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February 24, 2014

Law Society of British Columbia  
 845 Cambie Street  
 Vancouver, BC V6B 4Z9

Dear President Lindsay and Benchers:

We are writing in our capacities as leaders of LGBTQ affinity groups and organizations at Canadian law schools regarding Trinity Western University's (TWU's) proposed law school. TWU's program is currently seeking the approval of the provincial law societies for admission to the bar of each jurisdiction. In B.C., this accreditation process falls within the authority of the Law Society of British Columbia (LSBC). We have serious reservations about TWU's discriminatory policies towards LGBTQ students and the suitability of TWU as a forum to train future lawyers. We urge you to refuse or qualify TWU's accreditation. We also encourage you to advance an accreditation requirement in your province that prevents any accredited law school from discriminating on a constitutionally protected ground, such as sexual orientation.

Central to our concerns is the fact that TWU forces its students to sign a 'Community Covenant Agreement' requiring the student to abstain from "sexual intimacy that violates the sacredness of marriage between a man and a woman".<sup>1</sup> Students who do not comply with the agreement may be removed from the university without readmission.<sup>2</sup> The Community Covenant Agreement is inconsistent with the *Charter of Rights and Freedoms* and provincial human rights legislation. Accrediting a legal studies program that operates under this policy fetters the profession's obligation to serve the public interest.

Over the past year, a number of prominent stakeholders have echoed this sentiment. These include the Canadian Council of Law Deans,<sup>3</sup> the Canadian Bar Association,<sup>4</sup> the Canadian Federation of Students,<sup>5</sup> numerous prominent lawyers and academics, law school faculty councils,<sup>6</sup> editorial boards,<sup>7</sup> and over one thousand law students.<sup>8</sup> They have rightly pointed out that TWU's policies place a de facto quota on the number of law school places available to LGBTQ students. More broadly, they assert that given these discriminatory operating policies, TWU is not an appropriate venue for teaching constitutional law, nurturing

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The professional community turns to the law society for leadership and governance on these important issues. To date, it has been disappointing to see some law societies remain silent on this issue - deferring to Federation of Law Societies of Canada (FLSC). In December, it was with profound disbelief that we learned of the FLSC's recommendation that their provincial members approve TWU's law school. This was, in effect, a rubber stamp for discrimination: TWU's discriminatory covenant stands in direct opposition to the significant progress that has been made in the recognition of the rights of LGBTQ individuals over the past decade.

Further, the FLSC's protracted and closed-door process was patently not in the public interest – contrary to the mandate of the LSBC. Notably, there was no opportunity for anyone to present evidence of discrimination by TWU, or the effect of its covenant on LGBTQ faculty or students, even though the absence of such evidence was a key finding on which the committee relied to recommend that the proposed law school be recognized by the FLSC's members. Perpetuating the flawed process, B.C.'s Minister of Advanced Education relied heavily on the FLSC's decision to justify his own, approving the degree-granting program the day after the FLSC report was released.

In 2014, the FLSC's decision offends more than contemporary Canadian sensibilities. Our understanding is that it is also legally incorrect:

- First, the FLSC relies heavily on a 2001 Supreme Court of Canada (SCC) judgment in a case involving TWU and the B.C. College of Teachers.<sup>9</sup> Although this precedent cannot be ignored, over the last 12 years the law has transformed. The 2013 case of *Whatcott*<sup>10</sup> departs from the 2001 *Trinity Western* decision in important ways, notably by wholly rejecting the “hate the sin, love the sinner” excuse adopted by TWU to continue its discrimination in 2001. An institution cannot ban “sexual intimacy that violates the sacredness of marriage between a man and a woman” (i.e., sex between LGBTQ individuals) without effectively banning LGBTQ individuals. The effect of the covenant is to exclude anyone who lives in a committed same-sex relationship, which is an issue that was completely overlooked in the 2001 SCC decision.
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Such significant inconsistencies should prompt LSBC to heavily scrutinize the FLSC recommendation.

The law schools we attend have made a priority of making legal education more accessible, practical, and representative of Canadian society. The leadership of the B.C. profession should demonstrate the same interests in rendering their decision on TWU's accreditation. As future lawyers, we are committed to equality and promoting the values of the *Charter* within our practices. Our experiences have taught us that such professional standards can only be fostered in a learning environment that enshrines these values in policy and practice.

At the most basic level, it is unjust to open a law school that openly discriminates against a vulnerable segment of the Canadian public. We strongly recommend that you oppose or place conditions on TWU's

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<sup>10</sup> *Saskatchewan (Human Rights Commission) v Whatcott*, 2013 SCC 11, available online: <[http://scc.csc.lexum.com/decisia\\_scc\\_csc/scc\\_csc/en/12876/1/document.do](http://scc.csc.lexum.com/decisia_scc_csc/scc_csc/en/12876/1/document.do)>

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LSBC accreditation. We look forward to a properly balanced and progressive decision from the law society on this important issue, and appreciate this opportunity to provide input to the process. Should you wish to correspond with us as a group, please email [outlawscanada@gmail.com](mailto:outlawscanada@gmail.com).

Sincerely,

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February 24, 2014

Law Society of Manitoba  
 219 Kennedy Street  
 Winnipeg, MB R3C 1S8

Dear President Swayze, Vice President Clearwater, and Benchers:

We are writing in our capacities as leaders of LGBTQ affinity groups and organizations at Canadian law schools regarding Trinity Western University's (TWU's) proposed law school. TWU's program is currently seeking the approval of the provincial law societies for admission to the bar of each jurisdiction. In your jurisdiction, this accreditation process falls within the authority of the Law Society of Manitoba (LSM). We have serious reservations about TWU's discriminatory policies towards LGBTQ students and the suitability of TWU as a forum to train future lawyers. We urge you to refuse or qualify TWU's accreditation. We also encourage you to advance an accreditation requirement in your province that prevents any accredited law school from discriminating on a constitutionally protected ground, such as sexual orientation.

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<sup>11</sup> *Doré v Barreau du Québec*, 2012 SCC 12, available online: <<http://www.canlii.org/en/ca/scc/doc/2012/2012scc12/2012scc12.pdf>>

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February 24, 2014

Law Society of New Brunswick  
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Dear President Malone, Vice President Beaulieu, and Council Members:

We are writing in our capacities as leaders of LGBTQ affinity groups and organizations at Canadian law schools regarding Trinity Western University's (TWU's) proposed law school. TWU's program is currently seeking the approval of the provincial law societies for admission to the bar of each jurisdiction. In your jurisdiction, this accreditation process falls within the authority of the Law Society of New Brunswick (LSNB). We have serious reservations about TWU's discriminatory policies towards LGBTQ students and the suitability of TWU as a forum to train future lawyers. We urge you to refuse or qualify TWU's accreditation. We also encourage you to advance an accreditation requirement in your province that prevents any accredited law school from discriminating on a constitutionally protected ground, such as sexual orientation.

Central to our concerns is the fact that TWU forces its students to sign a 'Community Covenant Agreement' requiring the student to abstain from "sexual intimacy that violates the sacredness of marriage between a man and a woman".<sup>1</sup> Students who do not comply with the agreement may be removed from the university without readmission.<sup>2</sup> The Community Covenant Agreement is inconsistent with the *Charter of Rights and Freedoms* and provincial human rights legislation. Accrediting a legal studies program that operates under this policy fetters the profession's obligation to serve the public interest.

Over the past year, a number of prominent stakeholders have echoed this sentiment. These include the Canadian Council of Law Deans,<sup>3</sup> the Canadian Bar Association,<sup>4</sup> the Canadian Federation of Students,<sup>5</sup> numerous prominent lawyers and academics, law school faculty councils,<sup>6</sup> editorial boards,<sup>7</sup> and over one thousand law students.<sup>8</sup> They have rightly pointed out that TWU's policies place a de facto quota on the number of law school places available to LGBTQ students. More broadly, they assert that given these discriminatory operating policies, TWU is not an appropriate venue for teaching constitutional law, nurturing

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<sup>1</sup> Trinity Western University Community Covenant Agreement at page 3, available online: <[http://twu.ca/studenthandbook/twu\\_community\\_covenant\\_agreement.pdf](http://twu.ca/studenthandbook/twu_community_covenant_agreement.pdf)>

<sup>2</sup> Trinity Western University Student Handbook, Student Accountability Process, available online: <[http://twu.ca/studenthandbook/university\\_policies/student\\_accountability\\_process.html](http://twu.ca/studenthandbook/university_policies/student_accountability_process.html)>

<sup>3</sup> Canadian Council of Law Deans Letter to the Federation of Law Societies of Canada, November 20, 2012, available online: <[http://www.scribd.com/doc/156263670/CCLD\\_Letter\\_to\\_FLSC](http://www.scribd.com/doc/156263670/CCLD_Letter_to_FLSC)>

<sup>4</sup> Canadian Bar Association Letter to the Federation of Law Societies of Canada, March 18, 2013, available online: <[http://www.scribd.com/doc/156265274/CBA\\_Letter\\_to\\_FLSC](http://www.scribd.com/doc/156265274/CBA_Letter_to_FLSC)>

<sup>5</sup> Canadian Federation of Students Letter to the Federation of Law Societies of Canada, December 19, 2013, available online: <[http://cfs.fcee.ca/open\\_letter\\_reconsider\\_approval\\_of\\_law\\_school\\_at\\_trinity\\_western\\_university/](http://cfs.fcee.ca/open_letter_reconsider_approval_of_law_school_at_trinity_western_university/)>

<sup>6</sup> Four law school faculty councils have passed motions condemning the Community Covenant Agreement: Osgoode (<http://bit.ly/1ICEL16>), Queen's (<http://bit.ly/1e7xLrj>), UBC (<http://bit.ly/1laMBSW>), and Dalhousie (<http://bit.ly/1f1QgX2>). Faculty from Alberta's 2 law schools have also expressed their concerns in an open letter (<http://bit.ly/1f1YkL6>).

<sup>7</sup> The Globe and Mail, *Trinity Western should emulate its U.S. equivalents*, July 25, 2013, available online: <[http://www.theglobeandmail.com/globe\\_debate/editorials/trinity\\_western\\_should\\_emulate\\_its\\_us\\_equivalents/article13441598/](http://www.theglobeandmail.com/globe_debate/editorials/trinity_western_should_emulate_its_us_equivalents/article13441598/)>

<sup>8</sup> Osgoode Hall Law School Students' Letter to the Federation of Law Societies of Canada, March 18, 2013, available online: <[http://www.scribd.com/doc/156265623/Letter\\_from\\_Osgoode\\_Law\\_Students\\_to\\_the\\_FLSC](http://www.scribd.com/doc/156265623/Letter_from_Osgoode_Law_Students_to_the_FLSC)>; Media Release from Canadian Law Students, March 18, 2013, available online: <[http://www.scribd.com/doc/156265623/Letter\\_from\\_Osgoode\\_Law\\_Students\\_to\\_the\\_FLSC](http://www.scribd.com/doc/156265623/Letter_from_Osgoode_Law_Students_to_the_FLSC)>



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legal ethics, or promoting academic freedom. Our agreement with these views is underscored by the fact that many of our LGBTQ peers have been subjected to systemic discrimination, exclusion, and hatred related to their sexual orientation. It would be tremendously disheartening to see the profession's leadership support policies which perpetuate these unfortunate experiences and constrain access to legal education for LGBTQ individuals. Institutionalizing the targeted humiliation of LGBTQ individuals is unacceptable.

The professional community turns to the law society for leadership and governance on these important issues. To date, it has been disappointing to see some law societies remain silent on this issue - deferring to Federation of Law Societies of Canada (FLSC). In December, it was with profound disbelief that we learned of the FLSC's recommendation that their provincial members approve TWU's law school. This was, in effect, a rubber stamp for discrimination: TWU's discriminatory covenant stands in direct opposition to the significant progress that has been made in the recognition of the rights of LGBTQ individuals over the past decade.

Further, the FLSC's protracted and closed-door process was patently not in the public interest – contrary to the mandate of the LSNB. Notably, there was no opportunity for anyone to present evidence of discrimination by TWU, or the effect of its covenant on LGBTQ faculty or students, even though the absence of such evidence was a key finding on which the committee relied to recommend that the proposed law school be recognized by the FLSC's members. Perpetuating the flawed process, B.C.'s Minister of Advanced Education relied heavily on the FLSC's decision to justify his own, approving the degree-granting program the day after the FLSC report was released.

In 2014, the FLSC's decision offends more than contemporary Canadian sensibilities. Our understanding is that it is also legally incorrect:

- First, the FLSC relies heavily on a 2001 Supreme Court of Canada (SCC) judgment in a case involving TWU and the B.C. College of Teachers.<sup>9</sup> Although this precedent cannot be ignored, over the last 12 years the law has transformed. The 2013 case of *Whatcott*<sup>10</sup> departs from the 2001 *Trinity Western* decision in important ways, notably by wholly rejecting the “hate the sin, love the sinner” excuse adopted by TWU to continue its discrimination in 2001. An institution cannot ban “sexual intimacy that violates the sacredness of marriage between a man and a woman” (i.e., sex between LGBTQ individuals) without effectively banning LGBTQ individuals. The effect of the covenant is to exclude anyone who lives in a committed same-sex relationship, which is an issue that was completely overlooked in the 2001 SCC decision.
- Second, the 2012 SCC decision in *Doré*<sup>11</sup> now imposes an obligation on law societies to apply the *Charter* and provincial and territorial human rights codes every time they make a decision. The B.C. College of Teachers was under no such obligation in 2001. In practice, this means that private religious organizations can adopt membership rules that reflect their beliefs, but the government and other organizations operating in the public interest are not bound to approve such rules if they discriminate against individuals.

Such significant inconsistencies should prompt LSNB to heavily scrutinize the FLSC recommendation.

The law schools we attend have made a priority of making legal education more accessible, practical, and representative of Canadian society. The leadership of the New Brunswick profession should demonstrate the same interests in rendering their decision on TWU's accreditation. As future lawyers, we are committed to equality and promoting the values of the *Charter* within our practices. Our experiences have taught us that such professional standards can only be fostered in a learning environment that enshrines these values in policy and practice.

At the most basic level, it is unjust to open a law school that openly discriminates against a vulnerable segment of the Canadian public. We strongly recommend that you oppose or place conditions on TWU's

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<sup>9</sup> *Trinity Western University v British Columbia College of Teachers*, 2001 SCC 31, available online: <[http://scc.csc.lexum.com/decisia\\_scc\\_csc/scc/scc\\_csc/en/item/1867/index.do](http://scc.csc.lexum.com/decisia_scc_csc/scc/scc_csc/en/item/1867/index.do)>

<sup>10</sup> *Saskatchewan (Human Rights Commission) v Whatcott*, 2013 SCC 11, available online: <[http://scc.csc.lexum.com/decisia\\_scc\\_csc/scc\\_csc/scc\\_csc/en/12876/1/document.do](http://scc.csc.lexum.com/decisia_scc_csc/scc_csc/scc_csc/en/12876/1/document.do)>

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February 24, 2014

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 St. John's, NL A1C 5M3

Dear President Murphy and Benchers:

We are writing in our capacities as leaders of LGBTQ affinity groups and organizations at Canadian law schools regarding Trinity Western University's (TWU's) proposed law school. TWU's program is currently seeking the approval of the provincial law societies for admission to the bar of each jurisdiction. In your jurisdiction, this accreditation process falls within the authority of the Law Society of Newfoundland and Labrador (LSNL). We have serious reservations about TWU's discriminatory policies towards LGBTQ students and the suitability of TWU as a forum to train future lawyers. We urge you to refuse or qualify TWU's accreditation. We also encourage you to advance a requirement in your province that prevents any accredited law school from discriminating on a constitutionally protected ground, such as sexual orientation.

Central to our concerns is the fact that TWU forces its students to sign a 'Community Covenant Agreement' requiring the student to abstain from "sexual intimacy that violates the sacredness of marriage between a man and a woman".<sup>1</sup> Students who do not comply with the agreement may be removed from the university without readmission.<sup>2</sup> The Community Covenant Agreement is inconsistent with the *Charter of Rights and Freedoms* and provincial human rights legislation. Accrediting a legal studies program that operates under this policy fetters the profession's obligation to serve the public interest.

Over the past year, a number of prominent stakeholders have echoed this sentiment. These include the Canadian Council of Law Deans,<sup>3</sup> the Canadian Bar Association,<sup>4</sup> the Canadian Federation of Students,<sup>5</sup> numerous prominent lawyers and academics, law school faculty councils,<sup>6</sup> editorial boards,<sup>7</sup> and over one thousand law students.<sup>8</sup> They have rightly pointed out that TWU's policies place a de facto quota on the number of law school places available to LGBTQ students. More broadly, they assert that given these discriminatory operating policies, TWU is not an appropriate venue for teaching constitutional law, nurturing

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The professional community turns to the law society for leadership and governance on these important issues. To date, it has been disappointing to see some law societies remain silent on this issue - deferring to Federation of Law Societies of Canada (FLSC). In December, it was with profound disbelief that we learned of the FLSC's recommendation that their provincial members approve TWU's law school. This was, in effect, a rubber stamp for discrimination: TWU's discriminatory covenant stands in direct opposition to the significant progress that has been made in the recognition of the rights of LGBTQ individuals over the past decade.

Further, the FLSC's protracted and closed-door process was patently not in the public interest – contrary to the mandate of the LSNL. Notably, there was no opportunity for anyone to present evidence of discrimination by TWU, or the effect of its covenant on LGBTQ faculty or students, even though the absence of such evidence was a key finding on which the committee relied to recommend that the proposed law school be recognized by the FLSC's members. Perpetuating the flawed process, B.C.'s Minister of Advanced Education relied heavily on the FLSC's decision to justify his own, approving the degree-granting program the day after the FLSC report was released.

In 2014, the FLSC's decision offends more than contemporary Canadian sensibilities. Our understanding is that it is also legally incorrect:

- First, the FLSC relies heavily on a 2001 Supreme Court of Canada (SCC) judgment in a case involving TWU and the B.C. College of Teachers.<sup>9</sup> Although this precedent cannot be ignored, over the last 12 years the law has transformed. The 2013 case of *Whatcott*<sup>10</sup> departs from the 2001 *Trinity Western* decision in important ways, notably by wholly rejecting the “hate the sin, love the sinner” excuse adopted by TWU to continue its discrimination in 2001. An institution cannot ban “sexual intimacy that violates the sacredness of marriage between a man and a woman” (i.e., sex between LGBTQ individuals) without effectively banning LGBTQ individuals. The effect of the covenant is to exclude anyone who lives in a committed same-sex relationship, which is an issue that was completely overlooked in the 2001 SCC decision.
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Such significant inconsistencies should prompt LSNL to heavily scrutinize the FLSC recommendation.

The law schools we attend have made a priority of making legal education more accessible, practical, and representative of Canadian society. The leadership of the Newfoundland and Labrador profession should demonstrate the same interests in rendering their decision on TWU's accreditation. As future lawyers, we are committed to equality and promoting the values of the *Charter* within our practices. Our experiences have taught us that such professional standards can only be fostered in a learning environment that enshrines these values in policy and practice.

At the most basic level, it is unjust to open a law school that openly discriminates against a vulnerable segment of the Canadian public. We strongly recommend that you oppose or place conditions on TWU's

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February 24, 2014

Officers and Members of Council  
 Nova Scotia Barristers' Society  
 Cogswell Tower, 800-2000 Barrington Street  
 Halifax, NS B3J 3K1

Dear President Gallant, Officers, and Members of Council:

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## Trinity Western University: Proposed Law Degree

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### B.C. Law Society vote

**MANDATE:** N/A

**VALUE:** Government does not interfere with independent regulators.

**TOP 3 MESSAGES:**

- Trinity Western University is a private university in British Columbia, which receives no operating or capital funding from government
- The Advanced Education Minister considered the Degree Quality Assessment Board's recommendation and findings, as well as the Federation of Law Societies of Canada reports.
- As a result, he gave consent for a new law school program at Trinity Western University.

*If asked about the B.C. Law Society's motion:*

- The BC Law Society is the independent regulator for lawyers and they have the authority to determine who can practice law.
- I am not going to speculate on any outcome.

**SUPPORTING FACTS:**

- Government's review was based solely on the academic quality of Trinity Western's program.
- The community covenant at Trinity Western is outside of the mandate of our review under the Degree Quality Review Act



# Trinity Western University: Proposed Law Degree

## B.C. Law Society vote

### BACKGROUND:

**TWU's community covenant.** TWU students must sign and agree to abide by a Community Covenant. The Community Covenant Agreement includes a prohibition on "sexual intimacy that violates the sacredness of marriage between a man and a woman."

TWU, a faith-based private university located in Langley, wants to offer a Juris Doctor degree, a professional degree required to practice law in Canada. It hopes to launch the program in September 2015.

**Law Society Meeting:** At an upcoming meeting **April 11, 2014**, the BC Law Society may vote on a resolution concerning Trinity Western University law school [may be moved to a later date].

On Dec. 16, 2013, the Federation of Law Societies of Canada granted preliminary approval to a proposed new law school program at TWU. The Federation of Law Societies undertakes a review of proposed new law programs on whether the learning outcomes of the program enable graduates to meet the competencies to practice law. This is done on behalf of the provincial regulatory body, the Law Society of BC. If the Federation had not approved the program, graduates would not have been able to write the bar exams.

Minister Virk of Advanced Education approved the Juris Doctor degree Dec. 17/13.

The Law Society of BC has the authority to review the proposal independently of the Federation of Law Societies, and has indicated that it will take the time necessary to properly review and reflect on the issue, stressing that the decision requires procedural fairness. Canada has recognized same-sex marriages since 2005. In 2001, the Supreme Court of Canada ruled in *Trinity Western University v. British Columbia College of Teachers* following a similar issue. It is possible that irrespective of the decision of the Law Society of BC, persons seeking to challenge the community covenant will commence a legal action in an effort to have it struck down.

Program Area	Deputy / ADM	GCPE
Andrea Buzbuzian - March 4, 2014	Jay Chalke – March 4, 2014	PAO – Richelle D. Funk L Mulholland – March 4, 2014 Carolyn Heiman – March 4, 2014 AVED CD: Rodney Porter

March 18, 2014

Law Society of Upper Canada  
130 Queen Street West  
Toronto, ON M5H 2N6

Dear Treasurer and Members of Convocation:

Out On Bay Street is a non-profit organization that provides lesbian, gay, bisexual, transgender, and queer (LGBTQ) law students and young professionals with career development, educational, and networking opportunities, working to help them transition from school to the workplace. It is integral to our mandate to promote inclusive and pro-diversity workplaces and schools for LGBTQ individuals.

We are writing to register our concerns regarding Trinity Western University's (TWU's) proposed law school, given its impacts on our service community and student membership across Canada. TWU's program is currently seeking the approval of the provincial law societies for admission to the bar of each jurisdiction. In Ontario, this is a decision that falls to the Law Society of Upper Canada (LSUC). We have serious reservations about TWU's discriminatory policies towards LGBTQ students and the suitability of TWU as a forum to train future lawyers. We urge you to refuse or qualify TWU's accreditation. We also encourage you to advance an accreditation requirement in Ontario that prevents any accredited law school from discriminating on a constitutionally protected ground, such as sexual orientation.

Central to our concerns is the fact that TWU forces its students to sign a 'Community Covenant Agreement' requiring the student to abstain from "sexual intimacy that violates the sacredness of marriage between a man and a woman".<sup>1</sup> Students who do not comply with the agreement may be removed from the university without readmission.<sup>2</sup> The Community Covenant Agreement is inconsistent with the *Charter of Rights and Freedoms* and provincial human rights legislation. Accrediting a legal studies program that operates under this policy fetters the profession's obligation to serve the public interest.

Over the past year, a number of prominent stakeholders have echoed this sentiment. These include the Canadian Council of Law Deans,<sup>3</sup> the Canadian Bar Association,<sup>4</sup> the Canadian Federation of Students,<sup>5</sup> numerous prominent lawyers and academics, law school faculty councils,<sup>6</sup> editorial

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<sup>1</sup> Trinity Western University Community Covenant Agreement at page 3, available online: <[http://twu.ca/studenthandbook/twu\\_community\\_covenant\\_agreement.pdf](http://twu.ca/studenthandbook/twu_community_covenant_agreement.pdf)>

<sup>2</sup> Trinity Western University Student Handbook, Student Accountability Process, available online: <[http://twu.ca/studenthandbook/university\\_policies/student\\_accountability\\_process.html](http://twu.ca/studenthandbook/university_policies/student_accountability_process.html)>

<sup>3</sup> Canadian Council of Law Deans Letter to the Federation of Law Societies of Canada, November 20, 2012, available online: <[http://www.scribd.com/doc/156263670/CCLD\\_Letter\\_to\\_FLSC](http://www.scribd.com/doc/156263670/CCLD_Letter_to_FLSC)>

<sup>4</sup> Canadian Bar Association Letter to the Federation of Law Societies of Canada, March 18, 2013, available online: <[http://www.scribd.com/doc/156265274/CBA\\_Letter\\_to\\_FLSC](http://www.scribd.com/doc/156265274/CBA_Letter_to_FLSC)>

<sup>5</sup> Canadian Federation of Students Letter to the Federation of Law Societies of Canada, December 19, 2013, available online: <[http://cfs\\_fcee.ca/open\\_letter\\_reconsider\\_approval\\_of\\_law\\_school\\_at\\_trinity\\_western\\_university/](http://cfs_fcee.ca/open_letter_reconsider_approval_of_law_school_at_trinity_western_university/)>

boards,<sup>7</sup> and over one thousand law students.<sup>8</sup> They have rightly pointed out that TWU's policies place a de facto quota on the number of law school places available to LGBTQ students. More broadly, they assert that given these discriminatory operating policies, TWU is not an appropriate venue for teaching constitutional law, nurturing legal ethics, or promoting academic freedom. Our agreement with these views is underscored by the fact that many of our LGBTQ student members and colleagues have been subjected to systemic discrimination, exclusion, and hatred related to their sexual orientation. It would be tremendously disheartening to see the legal profession's leadership support policies which perpetuate these unfortunate experiences and constrain access to legal education and the legal profession for LGBTQ individuals. We are confident that our membership base and corporate partners would agree that institutionalizing the targeted humiliation of LGBTQ individuals is unacceptable.

The legal profession turns to the law society for leadership and governance on these important issues. To date, it has been disappointing to see some law societies remain silent on this issue - deferring to Federation of Law Societies of Canada (FLSC). In December, it was with profound disbelief that we learned of the FLSC's recommendation that their provincial members approve TWU's law school. This was, in effect, a rubber stamp for discrimination: TWU's discriminatory covenant stands in direct opposition to the significant progress that has been made in the recognition of the rights of LGBTQ individuals over the past decade.

Further, the FLSC's protracted and closed-door process was patently not in the public interest contrary to LSUC's mandate. Notably, there was no opportunity for anyone to present evidence of discrimination by TWU, or the effect of its covenant on LGBTQ faculty or students, even though the absence of such evidence was a key finding on which the committee relied to recommend that the proposed law school be recognized by the FLSC's members. Perpetuating the flawed process, B.C.'s Minister of Advanced Education relied heavily on the FLSC's decision to justify his own, approving the degree-granting program the day after the FLSC report was released.

In 2014, the FLSC's decision offends more than contemporary Canadian sensibilities. Our understanding is that it is also legally incorrect:

- First, the FLSC relies heavily on a 2001 Supreme Court of Canada (SCC) judgment in a case involving TWU and the B.C. College of Teachers.<sup>9</sup> Although this precedent cannot be ignored, over the last 12 years the law has transformed. The 2013 case of *Whatcott*<sup>10</sup> departs from the 2001 *Trinity Western* decision in important ways, notably by wholly rejecting the "hate the sin, love the sinner" excuse adopted by TWU to continue its discrimination in 2001. An institution cannot ban "sexual intimacy that violates the sacredness of marriage between a man and a woman" (i.e., sex between LGBTQ individuals) without effectively banning LGBTQ individuals. The effect of the covenant is to exclude anyone who lives in a committed same-sex relationship, which is an issue that was completely overlooked in the 2001 SCC decision.

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<sup>6</sup> Four law school faculty councils have passed motions condemning the Community Covenant Agreement: Osgoode (<http://bit.ly/1ICEL16>), Queen's (<http://bit.ly/1e7xLrj>), UBC (<http://bit.ly/1laMBSW>), and Dalhousie (<http://bit.ly/1f1QgX2>). Faculty from Alberta's 2 law schools have also expressed their concerns in an open letter (<http://bit.ly/1f1YkL6>).

<sup>7</sup> The Globe and Mail, *Trinity Western should emulate its U.S. equivalents*, July 25, 2013, available online: <[http://www.theglobeandmail.com/globe\\_debate/editorials/trinity\\_western\\_should\\_emulate\\_its\\_us\\_equivalents/article13441598/](http://www.theglobeandmail.com/globe_debate/editorials/trinity_western_should_emulate_its_us_equivalents/article13441598/)>

<sup>8</sup> Osgoode Hall Law School Students' Letter to the Federation of Law Societies of Canada, March 18, 2013, available online: <[http://www.scribd.com/doc/156265623/Letter\\_from\\_Osgoode\\_Law\\_Students\\_to\\_the\\_FLSC](http://www.scribd.com/doc/156265623/Letter_from_Osgoode_Law_Students_to_the_FLSC)>; Media Release from Canadian Law Students, March 18, 2013, available online: <[http://www.scribd.com/doc/156265623/Letter\\_from\\_Osgoode\\_Law\\_Students\\_to\\_the\\_FLSC](http://www.scribd.com/doc/156265623/Letter_from_Osgoode_Law_Students_to_the_FLSC)>

<sup>9</sup> *Trinity Western University v British Columbia College of Teachers*, 2001 SCC 31, available online: <[http://scc.csc.lexum.com/decisia\\_scc\\_csc/scc\\_csc/en/item/1867/index.do](http://scc.csc.lexum.com/decisia_scc_csc/scc_csc/en/item/1867/index.do)>

<sup>10</sup> *Saskatchewan (Human Rights Commission) v Whatcott*, 2013 SCC 11, available online: <[http://scc.csc.lexum.com/decisia\\_scc\\_csc/scc\\_csc/scc\\_csc/en/12876/1/document.do](http://scc.csc.lexum.com/decisia_scc_csc/scc_csc/scc_csc/en/12876/1/document.do)>

- Second, the 2012 SCC decision in *Doré*<sup>11</sup> now imposes an obligation on law societies to apply the *Charter* and provincial and territorial human rights codes every time they make a decision. The B.C. College of Teachers was under no such obligation in 2001. In practice, this means that private religious organizations can adopt membership rules that reflect their beliefs, but the government and other organizations operating in the public interest are not bound to approve such rules if they discriminate against individuals.

Such significant inconsistencies should prompt LSUC to heavily scrutinize the FLSC recommendation.

Current Canadian law schools have made a priority of making legal education more accessible, practical, and representative of society. The leadership of the Ontario profession should demonstrate the same interests in rendering their decision on TWU's accreditation. At the most basic level, it is unjust to open a law school that openly discriminates against a vulnerable segment of the Canadian public. We strongly recommend that you oppose or place conditions on TWU's LSUC accreditation. We look forward to a properly balanced and progressive decision from the law society on this important issue, and appreciate this opportunity to provide input to the process.

Sincerely,



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<sup>11</sup> *Doré v Barreau du Québec*, 2012 SCC 12, available online: <<http://www.canlii.org/en/ca/scc/doc/2012/2012scc12/2012scc12.pdf>>

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## MacLean, Madeline AVED:EX

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**Sent:** Monday, March 31, 2014 2:34 PM  
**To:** AVED MCRU Incoming Corresp Working Box AVED:EX  
**Subject:** Cliff 96876 - FOR RESPONSE: TWU law school

**Categories:** Minister

Please prepare response for ED signature as follows:

Branch: Gov & QA  
Issue: TWU

Judy Shaw  
Manager, Business Services & Ministerial Correspondence  
and Research Unit  
Office of the Deputy Minister  
Ministry of Advanced Education  
Telephone: 250 356-6284  
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**From:** s.22  
**Sent:** Monday, March 31, 2014 1:13 PM  
**To:** Minister, AVED AVED:EX  
**Subject:** Fwd: TWU law school

Begin forwarded message:

**From:** s.22  
**Subject:** TWU law school  
**Date:** March 31, 2014 at 4:10:42 PM EDT  
**To:** [amrik.virk.mla@leg.bc.ca](mailto:amrik.virk.mla@leg.bc.ca)

Dear Amrik Virk,

s.22 doing research for LEAF (Women's Legal Aid and Action Fund) into Trinity Western University's application to open a law school in Alberta. LEAF is looking for ways to contribute to the dialogue around this proposed law school, both provincially and nationally.

I was wondering if there were any meetings or events planned by the Ministry of Advanced Education in which the issues raised by the proposed TWU law school will be discussed.

We would like to keep abreast of such events and would be grateful for any information in this regard.

With many thanks in advance,  
Regards,

Page 54 redacted for the following reason:

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s.22

## MacLean, Madeline AVED:EX

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**From:** AVED Governance and Quality Assurance AVED:EX  
**Sent:** Thursday, April 24, 2014 9:03 AM  
**To:** s.22  
**Cc:** Minister, AVED AVED:EX  
**Subject:** Our Ref. 96876 - Re: Trinity Western University's proposed law degree

April 24, 2014  
Our Ref. 96876

s.22

Thank you for your e-mail sent to the Honourable Amrik Virk, Minister of Advanced Education, requesting information about whether the Ministry of Advanced Education has any meetings or events planned to discuss Trinity Western University's proposed law degree. Your e-mail has been forwarded to me for response on the Minister's behalf.

The Minister of Advanced Education gave consent for the proposed law degree under the *Degree Authorization Act* on December 17, 2013. There are no meetings or events planned by the Ministry of Advanced Education relating to this degree proposal.

For further information regarding British Columbia's degree review process, please visit the Degree Authorization website at: [www.aved.gov.bc.ca/degreeauthorization/welcome.htm](http://www.aved.gov.bc.ca/degreeauthorization/welcome.htm).

I trust this information is helpful to you.

Sincerely,

Mary Shaw  
Executive Director  
Governance and Quality Assurance Branch  
Ministry of Advanced Education

pc: Honourable Amrik Virk  
Minister of Advanced Education

**From**<sup>s.22</sup>  
**Sent:** Monday, March 31, 2014 1:13 PM  
**To:** Minister, AVED AVED:EX  
**Subject:** Fwd: TWU law school

Begin forwarded message:

<sup>s.22</sup>  
**From**  
**Subject:** TWU law school  
**Date:** March 31, 2014 at 4:10:42 PM EDT  
**To:** [amrik.virk.mla@leg.bc.ca](mailto:amrik.virk.mla@leg.bc.ca)

s.22

I was wondering if there were any meetings or events planned by the Ministry of Advanced Education in which the issues raised by the proposed TWU law school will be discussed.

With many thanks in advance,  
Regards,

s.22



## MacLean, Madeline AVED:EX

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**Subject:** Cliff 97107 - INFO/FILE - Loke v. Minister of Advanced Education of British Columbia  
**Attachments:** Petition.pdf; Sworn Affidavit of Trevor Loke April 11 (body only).PDF  
**Importance:** High

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**From:** Cheryl McKinnon [<mailto:cmckinnon@rubyshiller.com>]  
**Sent:** Monday, April 14, 2014 4:51 AM  
**To:** Minister, AVED AVED:EX; [emeehan@supremeadvocacy.ca](mailto:emeehan@supremeadvocacy.ca); [president@twu.ca](mailto:president@twu.ca)  
**Cc:** Gerald Chan; Clayton Ruby; Angela Chaisson; [KBrooks@jfkllaw.ca](mailto:KBrooks@jfkllaw.ca); [ESigurdson@jfkllaw.ca](mailto:ESigurdson@jfkllaw.ca)  
**Subject:** Re: Loke v. Minister of Advanced Education of British Columbia

Dear Sir/Madam:

Please be advised that Clayton Ruby and the law firm of Janes Freedman Kyle in Vancouver have been retained by Trevor Loke to challenge the decision of the Minister of Advanced Education to consent to Trinity Western University's Law School. Please find enclosed an electronic copy of the Petition and Affidavit of the Petitioner, Trevor Loke (without the exhibits). Our materials will be filed by the end of the day today, upon which hard copies will be served on you.

Yours truly,

**Cheryl McKinnon**  
**Law Clerk**

**RUBY**  
**SHILLER**  
**CHAN**  
**HASAN**

**BARRISTERS**

11 Prince Arthur Avenue  
Toronto Ontario M5R 1B2  
T: 416 964 9664 • F: 416 964 8305 • Web: [www.rubyshiller.com](http://www.rubyshiller.com)  
E: [cmckinnon@rubyshiller.com](mailto:cmckinnon@rubyshiller.com)

"The information contained in this electronic message is legally privileged and confidential information that is exempt from disclosure under applicable law and is intended only for the use of the individual or entity to which it is addressed. If you have received this communication in error, please notify us immediately by telephoning (416) 964-9664 or by email at [cmckinnon@rubyshiller.com](mailto:cmckinnon@rubyshiller.com) Thank you for your cooperation."

Pages 58 through 90 redacted for the following reasons:

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s.3

## MacLean, Madeline AVED:EX

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**Subject:** Cliff 97107 - INFO/FILE FW: Re: Loke v. Minister of Advanced Education of British Columbia  
**Attachments:** Affidavit of Jill Bishop SWORN.pdf; Sworn Affidavit of Cheryl McKinnon.pdf  
**Importance:** High

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**From:** Cheryl McKinnon [<mailto:cmckinnon@rubyshiller.com>]  
**Sent:** Monday, April 14, 2014 9:23 AM  
**To:** [president@twu.ca](mailto:president@twu.ca); [emeehan@supremeadvocacy.ca](mailto:emeehan@supremeadvocacy.ca); Minister, AVED AVED:EX  
**Cc:** Gerald Chan; Clayton Ruby; Angela Chaisson; [KBrooks@jfkllaw.ca](mailto:KBrooks@jfkllaw.ca); [ESigurdson@jfkllaw.ca](mailto:ESigurdson@jfkllaw.ca); Mandy Machin  
**Subject:** FW: Re: Loke v. Minister of Advanced Education of British Columbia

Dear Sir/Madam:

Further to my email of this morning, please find attached the following materials:

1. Affidavit of Catherine Taylor
2. Affidavit of Barry Adam
3. Affidavit of Ellen Faulkner
4. Affidavit of Jill Bishop
5. Affidavit Cheryl McKinnon

Additional materials will be forwarded to you throughout the day as we are able to scan them. As indicated in my email earlier this morning, a hard copy of all our materials will be served on you shortly.

Yours truly,

**Cheryl McKinnon**  
**Law Clerk**

**RUBY**  
**SHILLER**  
**CHAN**  
**HASAN**  
**BARRISTERS**

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---

**From:** Cheryl McKinnon  
**Sent:** April 14 14 7:51 AM  
**To:** 'aved.minister@gov.bc.ca'; 'emeehan@supremeadvocacy.ca'; 'president@twu.ca'  
**Cc:** Gerald Chan; Clayton Ruby; Angela Chaisson; 'KBrooks@jfkllaw.ca'; 'ESigurdson@jfkllaw.ca'  
**Subject:** Re: Loke v. Minister of Advanced Education of British Columbia

Dear Sir/Madam:

Please be advised that Clayton Ruby and the law firm of Janes Freedman Kyle in Vancouver have been retained by Trevor Loke to challenge the decision of the Minister of Advanced Education to consent to Trinity Western University's Law School. Please find enclosed an electronic copy of the Petition and Affidavit of the Petitioner, Trevor Loke (without the exhibits). Our materials will be filed by the end of the day today, upon which hard copies will be served on you.

Yours truly,

**Cheryl McKinnon**  
**Law Clerk**

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**SHILLER**  
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**BARRISTERS**

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E: [cmckinnon@rubyshiller.com](mailto:cmckinnon@rubyshiller.com)

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Pages 93 through 243 redacted for the following reasons:

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s.3

## MacLean, Madeline AVED:EX

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**From:** Minister, AVED AVED:EX  
**Sent:** Tuesday, May 20, 2014 10:34 AM  
**To:** AVED MCRU Incoming Corresp Working Box AVED:EX  
**Cc:** Facey, Nick AVED:EX; Carey, Linda J AVED:EX  
**Subject:** Cliff 97298 - INFO/FILE: Discriminatory TWU Covenant  
**Categories:** Info/File, Minister

Please info/file as follows:

Branch: Gov & QA  
Issue: TWU

Judy Shaw  
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.

s.22

**From:**  
**Sent:** Monday, May 19, 2014 1:36 PM  
**To:** [info@flsc.ca](mailto:info@flsc.ca); AVED Degree Quality Assessment Board Secretariat AVED:EX; Minister, AVED AVED:EX;  
[david.eby.mla@leg.bc.ca](mailto:david.eby.mla@leg.bc.ca)  
**Subject:** Discriminatory TWU Covenant

**To:**  
*Federation of Law Societies of Canada Special Advisory Committee on TWU's Proposed School of Law –*  
[info@flsc.ca](mailto:info@flsc.ca)  
*Degree Quality Assessment Board, Government of British Columbia –* [DQABsecretariat@gov.bc.ca](mailto:DQABsecretariat@gov.bc.ca)  
*Amrik Virk, Minister of Advanced Education, Government of British Columbia –* [AVED.Minister@gov.bc.ca](mailto:AVED.Minister@gov.bc.ca)  
*David Eby, Opposition Critic for Advanced Education –* [david.eby.mla@leg.bc.ca](mailto:david.eby.mla@leg.bc.ca)

*Because of its discriminatory admittance and hiring policies, the BC Humanist Association calls for the proposed School of Law at Trinity Western University to be rejected.*

*TWU's policies violate the fundamental notion of equality. Approving their law school would create an extra path to becoming a lawyer in Canada that is not available to students who do not fit with TWU's vision of heterosexual Christians.*

*It is well documented that TWU's Community Covenant discriminates against gay and lesbian students. The Covenant also requires that students adopt an anti-choice stance (students must "uphold...worth from conception") contrary to Canada's ongoing commitment to women's reproductive freedoms. Furthermore, the mandatory Statement of Faith for faculty and staff discriminates against the non-religious and others who are not Christian. These restrictions threaten academic freedom at TWU.*



*Our Board of Directors, in solidarity with numerous other organizations, have taken a strong stance against this proposal and urge the FLSC and Government of British Columbia to stand up for prospective LGBT and non-Christian lawyers by rejecting this discriminatory law school.*

*Sincerely,*

s.22