

## **Policy and Procedures for Accommodations in the Bar Admission Course**

### **Introduction**

As the governing body of a profession concerned with justice, the Law Society of Newfoundland and Labrador (the “Law Society”) has a strong public interest in promoting equality. The legal approach to equality recognizes that treating people identically is not synonymous with treating them equally. Substantive equality may require accommodation of differences that arise from the enumerated grounds under the *Human Rights Act, 2010*, SNL 2010, c. H-13.1 (the “Act”).

The Law Society is committed to ensuring that the requirements of the Bar Admission Course (the “BAC”) are directly and logically connected to the competent practice of law and that persons are not effectively barred from qualification because of one or more enumerated grounds under the Act. Where a requirement of the BAC creates difficulty for a student because of circumstances related to an enumerated ground, a duty to accommodate may arise.

Accommodation involves adapting a requirement of the BAC or providing an alternative means by which a student may meet that requirement, provided that the accommodation does not compromise the fair assessment of competence or otherwise impose undue hardship on the Law Society. The determination of whether accommodation is required, and what form it should take, is an ongoing obligation.

This document sets out the policy and procedures by which students registered in the BAC may request accommodation. Accessibility support is coordinated by the Director of Admissions and Education in consultation with the Education Committee.

### **Limits on Accommodation / Undue Hardship**

An accommodation will not be provided where the Education Committee determines that it would compromise a fair assessment of a student’s competence or impose undue hardship on the Law Society. This determination is made on a case-by-case basis by the Education Committee. In making its determination, the Education Committee may consult with the Director of Admissions and Education and the Executive Director of the Law Society, where appropriate.

In assessing undue hardship, the Education Committee may consider factors including, but not limited to: the integrity and security of the BAC examinations; significant economic cost to the Law Society; health and safety considerations; the availability of persons with appropriate expertise; a substantial adverse impact on learning opportunities for other students; a

fundamental alteration of the nature of the program or service; or undue disruption of the Law Society's operations.

Where a requested accommodation is denied on the basis of undue hardship or impairment of competence assessment, the Law Society will provide written reasons to the student.

### **Confidentiality and Disclosure of Information**

To protect the interests of students seeking accommodation, the Law Society will treat all information provided in support of an accommodation request as confidential. Such information will be used solely for the purpose of assessing the request and, if accommodation is granted, implementing the approved measures. Access to this information is restricted to Law Society staff and members of the Education Committee who require it for these purposes. The information will not be disclosed to any other person without the student's written consent, unless required by law.

The Law Society will maintain records relating to accommodation requests, including supporting documentation, correspondence, decisions, and any measures implemented.

Students are responsible for providing sufficient information to substantiate their request and to enable the Law Society to assess and implement appropriate accommodation. The Education Committee will require only such information as is reasonably necessary for that purpose.

Where the information provided is insufficient to permit an informed decision, the Education Committee may request additional documentation, including clarification or confirmation from a qualified medical or other appropriate professional. Any such request will be directed to the student. A delay in providing requested information may result in a corresponding delay in the consideration of the accommodation request.

### **Agreement and Undertaking Regarding Bar Admission Course Accommodation**

Accommodations granted by the Law Society are confidential. Students who are granted accommodation are expected to maintain the confidentiality of both the accommodation itself and any related information. Disclosure should be limited to qualified medical or other appropriate professionals for the purpose of advising or assessing the student's participation in the BAC, unless otherwise authorized by the Law Society.

In certain circumstances, an accommodation may result in a student writing a BAC examination at a different time or location than the scheduled sitting. This may create the possibility that a

student could obtain or communicate information relating to the content or materials of an examination before all students have commenced or completed that examination.

To preserve the integrity and fairness of the BAC examinations, the *Accommodation Request Form* contains an Agreement and Undertaking Regarding Bar Admission Course Accommodation. Any student granted examination-related accommodation is bound by that Agreement and Undertaking as a condition of receiving the accommodation. The Agreement and Undertaking imposes strict obligations respecting confidentiality and non-disclosure of examination content and related information.

A breach of the Agreement and Undertaking constitutes a breach of Rule 6.12 of the Law Society Rules and may result in disciplinary or other action.

### **Procedure and Responsibilities of Requesting Student**

A student seeking accommodation under this policy must comply with the following requirements:

1. The student must submit a written request for accommodation to the Education Committee in the prescribed form.
2. The request and all supporting documentation must be received by the Education Committee no later than August 1 of the year in which the student will participate in the BAC.
3. The student must identify the enumerated ground or grounds upon which the request is based.
4. The student must provide sufficient information to establish the need for accommodation and the nature of the accommodation requested, together with any additional information reasonably required by the Education Committee to assess the request.
5. The student must cooperate in obtaining necessary documentation and, where requested by the Education Committee, participate in discussions regarding appropriate accommodation measures.
6. The student must promptly advise the Education Committee of any change in circumstances that may affect the need for accommodation or the form of accommodation required.

### **Requirements for Supporting Information**

A request for accommodation must be made in sufficient detail and be supported by appropriate, verifiable documentation to enable the Education Committee to assess the request and determine appropriate accommodation measures.

Requests must be submitted with adequate time to permit meaningful review and, where approved, implementation of the accommodation. Incomplete requests, or requests submitted without the required supporting documentation, may not be considered after August 1 of the year in which the student will be participating in the BAC.

### **Supporting Information for an Accommodation Based on a Disability**

The term “Disability” is defined in paragraph 2(c) of the Act as meaning one or more of the following conditions:

- i. A degree of physical disability;
- ii. A condition of mental impairment or a developmental disability;
- iii. A learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or language; and
- iv. A mental disorder.

A student making a request for accommodation based on a Disability must provide verifiable medical documentation in support of the request. Medical professionals must use the *Supporting Documentation Form for Medical Professionals Recommending Accommodation(s)* to submit their supporting documentation. This completed form, along with any appendices, must be submitted directly by the medical professional to the Director of Admission and Education, by email (churley@lsnl.ca).

A student who relies on subsection 2(c)(ii), (iii), or (iv) of the definition of “Disability” under the Act and seeks additional writing time for a BAC examination must submit a current psychological or psycho-educational assessment report in support of the request. This requirement is in addition to the *Supporting Documentation Form for Medical Professionals Recommending Accommodation(s)*.

The assessment report must identify the diagnosed impairment, describe its impact on the student’s functioning, and explain the nature and severity of the condition. It must clearly articulate how the student’s functional limitations arise from the diagnosed impairment and how

those limitations affect the student's ability to complete the examination within the standard time. The report must provide a measurable and reasoned basis for the accommodation sought.

Any recommendation for additional writing time must specify the precise amount of additional time requested and explain why that amount is necessary having regard to the student's functional limitations.

All supporting documentation must be specific and verifiable. Documentation provided by a professional must clearly identify the professional's name, credentials, and area of expertise

Supporting medical documentation must also include:

1. Confirmation that the student is affected by a Disability;
2. An explanation of how the Disability adversely affects the student's ability to participate in the BAC; and
3. A description of the professional's recommended accommodation and any alternative accommodations that may be considered (please note that the accommodation provided may not be the professional's recommended or alternative accommodation).

### **Requirements for Recommended Accommodations for a Student with a Disability**

Where a student's supporting documentation recommends a specific accommodation, the recommendation must explain how the proposed accommodation will negate or mitigate the adverse effects of the student's Disability in the context of writing a BAC examination.

Recommendations must be specific and must take into account the format and conditions of the BAC examinations.

Each BAC examination is a 3.5-hour open-book examination completed using examination software selected by the Law Society. Any recommended accommodation should address the functional demands of that format.

Evidence of prior accommodation is relevant but is not determinative. A previous accommodation does not guarantee that the same accommodation will be granted in the BAC, as each request is assessed on a case-by-case basis having regard to the specific requirements and conditions of the BAC.

Students are encouraged to provide information regarding prior accommodations received from other institutions or organizations in respect of the same or a similar Disability, including, for example, the Law School Admission Council or a law school. Such information may assist the Education Committee in determining appropriate accommodation in the BAC.

### **Procedure and Responsibilities of the Education Committee**

When a student requests accommodation under this policy, the Education Committee is responsible for assessing the request and determining appropriate measures. In doing so, the following procedures apply:

1. The Education Committee will treat the student with dignity and respect, including recognition of the student's privacy, confidentiality, autonomy, and personal integrity.
2. The Education Committee will presume that a request for accommodation is made in good faith, absent legitimate grounds to conclude otherwise.
3. The Education Committee will request only such information as is reasonably necessary to assess the request.
4. The Education Committee will consider requests in a timely manner, provided that the student has submitted all required supporting documentation with sufficient time for meaningful review.
5. The Education Committee will consider any recommendations or suggestions provided by the student or a qualified professional and may consult with the student to determine whether a requested or approved accommodation is appropriate or requires modification.
6. Where a requested accommodation cannot be implemented in whole or in part, the Education Committee will consider reasonable alternative measures.
7. Where accommodation is approved, the Education Committee will arrange for its implementation, unless it determines that implementation is appropriately the responsibility of the student, in which case the student will be advised accordingly.
8. Where appropriate, the Education Committee may implement an interim or trial accommodation to address immediate needs or to assess the effectiveness of a proposed measure