



December 16, 2025

SENT VIA EMAIL (PolicyConsultation@lso.ca)

Law Society of Ontario
Professional Development and Competence Committee
130 Queen Street West
Toronto, Ontario
M5H 2N6

Attention: Atrisha Lewis, Chair, Professional Development and Competence Committee

Dear Ms. Lewis:

Re: Consultation - Modernizing the Law Society of Ontario's Lawyer Licensing Candidate Assessment Process

The Federation of Ontario Law Associations ("FOLA"), representing Ontario's 46 county and district law associations and their practising members, appreciates the opportunity to respond to the Law Society of Ontario's ("LSO") consultation on modernizing the lawyer licensing candidate assessment process. FOLA recommends that the LSO maintain the existing licensing examinations rather than replacing them with a third-party, skills-based assessment as contemplated in the Consultation Report. If reform is desired, a more appropriate alternative would be to reinstate a version of the pre-2006 Bar Admissions Course (the "BAC"), combining modular substantive instruction, skills training, and culminating examinations.

Our position rests on five core propositions:

- 1) the licensing process must preserve a demonstrable baseline of substantive Ontario legal knowledge;
- 2) skills training is already addressed through articling and experiential pathways; duplicating it in place of examinations misaligns the regulator's role;
- 3) the evidence base for the proposed changes is insufficient, particularly as to whether only a skills-based assessment would better ensure competence or equity;
- 4) outsourcing assessments to third-party providers risks diluting the LSO's core regulatory responsibilities; and,
- 5) the proposed model may increase costs and complexity without meaningfully improving candidate competence or public protection; without a feasibility study comparing existing costs with future ones the cost-saving suggestion in the Consultation Report is a premature conclusion.

FOLA's Role and Mandate

FOLA is the only province-wide legal organization representing the interests of licensees practicing at the front lines of legal services across all regions of Ontario. This submission reflects internal consultations and feedback from a significant cross-section of the practising

bar. As such, it should be understood as a grounded, practice-informed perspective on the essential competencies that protect the public and sustain the profession's standards.

The Purpose of Licensing and the Role of Substantive Knowledge

Any licensing regime must credibly assure the public that newly licensed lawyers possess baseline substantive knowledge of Ontario legal system, institutions and the law and can apply the law under time and practice-relevant constraints. The LSO's proposal, which suggests replacing the solicitor and barrister examinations with a skills-based assessment, risks signaling that substantive knowledge can be de-emphasized in favour of navigational or relational competencies. That premise is misconceived. In every practice setting—whether litigation, transactional work, or advisory services—errors in substantive law create client harm and professional misconduct risk, including duplication of services, insurance claims and additional costs to the client. A licensing process that sidelines substantive testing undermines the regulator's mandate.

If the current examinations incentivize “indexing” rather than knowledge and analysis, the solution is not to abandon examinations but to reform them. Options include modular, closed-book components, mixed-format testing (multiple choice, short answer, essay), and contextual, time-limited questions that require analytical application of legal concepts. Prior to 2006, the BAC used smaller, focused modules culminating in assessments that better aligned format with the knowledge and skills at issue. A return to that structure, modernized for current conditions, would better serve the licensing purpose than wholesale replacement with a skills course.

It is astonishing that the Committee would make an assertion that “with new technologies such as generative artificial intelligence rapidly changing the practice of law, the role of lawyers will increasingly be relational and strategic and less focused on information and knowledge.” The only rational deduction from this comment is that licensees are not required to have substantive knowledge but essentially have the resources to identify where the knowledge can be found. On the one hand, the Committee suggests that substantive knowledge may be less of a professional standard in support of removing substantive examinations; but on the other hand, it suggests that licensees may really be professional ‘indexers’ of information to help direct client inquiry, which supports the existing examination format. Either way, this is a negative assertion about the practice of law and the expectation of clients.

Evidence, Assumptions, and Comparative Models

The consultation paper makes several assertions about candidate demographics, jurisdictional trends, and best practices without providing sufficient evidence to support the conclusion that the current examinations are deficient or that a third-party skills-based assessment will better ensure entry-level competence. The suggestion that generative AI will reduce the centrality of legal knowledge misconceives both current technology and professional accountability. Tools can augment practice; they cannot replace the lawyer's obligation to know, analyze, and exercise independent judgment.

Comparisons to smaller jurisdictions that have adopted practice-readiness programs should be treated with caution. Ontario's scale, diversity of practice contexts, and annual volume of candidates create different operational and policy considerations that are not readily transferable to those jurisdictions. Moreover, multi-jurisdictional licensing into Ontario requires, if anything, a greater focus on Ontario-specific substantive law rather than generalized professional skills or federal regimes.

Addressing Concerns with the Existing Examinations

Several practical concerns about the current examinations can be addressed through targeted reform:

- If the breadth of materials fosters “indexing,” which is not desirable, then restructure the exams into smaller, modular assessments aligned to discrete areas of law and practice, with mixed formats that elicit application and judgment rather than lookup.
- Consider closed-book or partially closed-book formats to ensure candidates internalize key requirements and processes.
- Utilize secure electronic delivery at supervised resource centres across the province to improve logistics, accessibility, and cost management while maintaining exam integrity.
- Expand question banks and randomized forms to mitigate security risks; modern test-delivery platforms can generate multiple equivalent versions from large pools of validated questions.
- Ensure accommodations are administered consistently and transparently and for bona fide reasons. The significant increase in accommodated sittings warrants careful monitoring to preserve fairness and comparability across candidates. If a majority of candidates are accommodated, the process is flawed.

These measures address the identified problems without discarding the central function of substantive licensing examinations.

Skills Training Is Not a Substitute for Substantive Assessment

Skills training and assessment already occur through articling, the Law Practice Program, and integrated practice curricula. Substituting a skills-based course for examinations duplicates experiential components and risks introducing subjectivity in assessment through individualized grading. If pass/fail determinations rest on subjective evaluators, the regime may reintroduce inequities and variability that standardized examinations are designed to avoid. Experiential learning is indispensable, but it is not a proxy for proof of substantive legal competence at entry to practice.

We note that only a few years ago, the LSO held a consultation on the possibility of eliminating the articling requirement, to much outrage amongst the profession. Many of the compelling arguments to support the continuation of articling as a skills-based, practical application of legal training remain true to maintaining substantive examinations.

Equity, Barriers, and the Realities of Practice

Concerns about stress and mental health in licensing assessments must be taken seriously and addressed through clear communication, support, and appropriate accommodations. However, minimizing the rigor of substantive assessment is not the remedy. Legal practice is demanding, time-sensitive, and responsibility-laden. A licensing process should reflect those realities in a fair and transparent manner. Reducing cognitive rigor in the name of equity risks producing the opposite effect—licensing candidates into environments for which they are unprepared and where client harm is more likely. Equity is best served by a fair process that measures the right competencies in the right ways, not by lowering standards.

Regulatory Responsibilities and Public Confidence

The LSO's core obligation is to set, maintain, and enforce standards that protect the public. Delegating core assessment functions to third-party providers for a skills-based course blurs regulatory accountability and may erode public confidence. The perception that the regulator is diluting substantive requirements to accommodate candidate preferences is particularly problematic at a time of heightened scrutiny of the profession's self-regulation. The LSO should retain ownership and control of competency standards, assessment design, and quality assurance.

Costs, Security, and Feasibility

Cost-recovery pressures are real but should not determine the shape of the licensing regime. If the regulator concludes that full cost recovery compromises the public-interest standard, then general licensee fees should bear the difference in a balanced way. A skills-based program with trained lawyer assessors and newly designed testing standards may not reduce costs and could introduce new administrative burdens. A careful feasibility and cost analysis comparing a reformed examination model to a third-party skills course is essential before any change proceeds.

Modern test security can be meaningfully enhanced through technology. Question/exam banks, randomized delivery, computer-based testing in secure centres, and analytics-driven anomaly detection can reduce cheating risks. These measures, coupled with refreshed exam design, offer a more proportionate and reliable solution than displacing examinations entirely.

LSO licensing is a commodity and recognized throughout Canada and internationally as a prolific and meaningful accreditation and access to the Ontario marketplace for legal services. This is so, partly because of the standards behind licensing.

Alternative Reform Model

If the LSO seeks modernization, FOLA recommends a model that preserves and strengthens substantive assessment while aligning with contemporary practice:

1. Reinstate a modular structure similar to the former BAC, with discrete subject domains and culminating assessments that mix multiple-choice, short-answer, and essay formats; modest skills assessment relating to each practice module would supplement substantive evaluation; modern technology and other advancements could help to reduce costs of the former BAC model;
2. Deliver exams electronically in secure, proctored centres province-wide, using large, calibrated question banks to enable randomized exam forms and maintain equivalence across sittings;
3. Include practice-contextual questions that require candidates to read, analyze, and apply Ontario-specific law under time constraints;
4. Maintain and enhance experiential requirements (articling, LPP, or integrated practice curricula) as complementary, not substitutive, components for skills development and evaluation;
5. Implement transparent accommodation protocols with consistent standards, and publish annual data to promote trust and continuous improvement.

This modernization path addresses the LSO's operational and security concerns while preserving the essential regulatory function of verifying substantive legal competence.

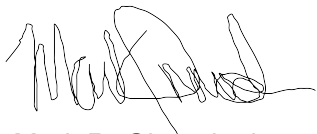
Conclusion and Recommendations

For the reasons above, FOLA recommends that the LSO not proceed with replacing the solicitor and barrister examinations with a third-party, skills-based assessment. Instead, the LSO should:

- Maintain and reform the existing examinations to ensure they validly and reliably assess substantive knowledge and its application in Ontario legal contexts; and
- Consider reinstating a modular, pre-2006-style Bar Admissions model—updated for current technology and practice realities—that integrates skills training within experiential pathways while preserving rigorous culminating substantive examinations.

This approach better serves the public interest, sustains confidence in the licensing process, and ensures that newly licensed lawyers enter the profession with the foundational knowledge and judgment the public expects and deserves.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Mark R. Giavedoni', written over a horizontal line.

Mark R. Giavedoni
2nd Vice Chair