



Submission on Law Society of Ontario's ("LSO") Consultation  
on Mandatory Minimum Compensation for Experiential  
Training for Lawyer Licensing Candidates

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## Introduction

The Ontario Bar Association (“OBA”) appreciates the opportunity to provide feedback on the Law Society of Ontario’s (“LSO”) consultation on mandatory minimum compensation for experiential training for lawyer licensing candidates (“MMC”).

## The Ontario Bar Association (OBA)

Established in 1907, the OBA is Ontario’s largest voluntary legal advocacy organization, representing lawyers, judges, law professors and students from across the province, on the frontlines of our justice system. Through the work of our 40 practice sections, the OBA routinely provides expert advice to the Law Society on matters that affect the administration of justice in Ontario in the interest of the public and the profession.

This submission was prepared by members of the OBA Labour & Employment Law Section, Students Section, Sole, Small Firm and General Practice Section, and Young Lawyers Division with assistance from the OBA Policy and Public Affairs Committee. The OBA has also sought input from a critical cross-section of the Bar from all 8 regions including senior and junior lawyers, from managing partners to new calls and students who practice across Ontario as solicitors and barristers in a variety of practice settings.

## Background

In 2018, in response to the LSO’s Consultation Paper, “Options for Lawyer Licensing”, the OBA had expressed a desire to have licensing candidates remunerated for their work. However, the OBA could not recommend mandatory compensation for articling placements as there were concerns that adding a new remuneration requirement could jeopardize the availability of practice placements, could prevent candidates from accepting unpaid, valuable work opportunities and would negatively impact some practice settings (e.g. clinics, public interest organizations and sole practitioners) and some practice areas (e.g. criminal firms outside of urban centres) which were not adequately mitigated.<sup>1</sup> At this time, the Law Practice Program/ Programme de Pratique du Droit

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<sup>1</sup> OBA, [2018 Response to Law Society of Ontario’s Consultation on Lawyer Licensing](#), p.10-11. (OBA 2018 Submission)



(LPP/PPD) was in the pilot stage with smaller than expected enrollment and a potential perception of second-tier status. Based on comments from our student members, the OBA noted the lack of confidence that some licensing candidates may have in pursuing a pilot program that could be discontinued. Similarly, the OBA noted that lack of certainty about the program was likely a deterrent for would-be employers and that perceived stigma could be alleviated if the LPP/PPD program was integrated into the licensing process in a more stable and long-term way.<sup>2</sup>

In December 2018, the LSO approved recommendations requiring that all articling and LPP/PPD placements would be paid a minimum compensation with an exemption process meant for high quality placements that serve vulnerable populations and may not have stable sources of funding to allow for remuneration. The LSO has since amended their position to recommend a best practices approach to compensation.

The OBA supports MMC with the exemption LSO proposed for high quality placements that serve vulnerable populations and may not have stable sources of funding to allow for remuneration. The OBA maintains the view that compensating licensing candidates for their work is an integral part of ensuring equity and fairness in the legal profession. The OBA's Student Section which makes up the cohort of future licensees in particular overwhelmingly supported MMC. The current options for experiential learning and multiple pathways to licensing, in particular, the stability of the LPP/PPD program as a permanent pathway to licensing and models of experiential learning built into the law school experience, have provided more options for would-be employers to participate in experiential training for lawyer licensing candidates in a manner that makes most sense from a business and financial perspective for their practices.

## **Multiple options for experiential training**

The LSO currently allows numerous paths to licensing other than the traditional 10-month articling term. The result is that there are numerous ways that lawyers can participate as principals.

The LPP/PPD consists of a 4-month placement that follows a 4-month training program. Originally a pilot program, the LPP/PDD program became a permanent pathway to licensing by LSO in 2018.

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<sup>2</sup> OBA 2018 Submission, p.7



LSO also provides for joint articles of clerkship and part-time articles of clerkship which allows candidates to complete their articling with more than one approved principal<sup>3</sup> thereby giving principals in sole practice or small firms the option of sharing the financial commitment and lessening the financial burden on a single employer.

The Bora Laskin Faculty of Law at Lakehead University and more recently, Lincoln Alexander School of Law at Ryerson University also provide Integrated Practice Curriculum that does not require its graduates to complete an articling placement or LPP/PPD to become licensed. These programs require a four-month placement with an approved supervisor.

The LSO has indicated that its orientation package could be used to seek out new articling principals on a proactive basis and promote current articling avenues available. The OBA would support this approach and further, would recommend that the LSO be a conduit to connect potential principals who do not have the capacity to commit to a full articling term but could commit to part of an articling term.

## **Recognition of the position and work of articling students**

Articling and LPP/PPD students are among the most vulnerable in the legal profession as they can be exploited or relegated to non-legal work which is not beneficial to their training. Unless they have attended one of the schools offering an integrated practice curriculum,<sup>4</sup> they will have to complete an experiential training placement. The high law school tuition rates and significant debt load that many students take can also make licensing candidates extremely vulnerable to accepting and remaining in positions that are not beneficial to their training or potentially abusive. Both issues can put licensing candidates in precarious positions as their entrance into the profession is dependent on their successful completion of this placement.

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<sup>3</sup>LSO, [Articles of Clerkship](#)

<sup>4</sup> Currently, there are two Ontario schools offering IPC: Bora Laskin Faculty of Law at Lakehead and Lincoln A. Alexander Faculty of Law at Ryerson University)



While articling is a training mechanism for licensing candidates, the licensing candidates often take on the responsibilities of a lawyer. They see clients, handle and maintain confidential matters drafting documents and make court appearances in numerous circumstances.<sup>5</sup>

Licensing candidates are not protected under the *Employment Standards Act*. It is the OBA's view that a best practices approach to compensation as recommended by the regulator does not send a clear message. Unfortunately, there remains in some avenues of the profession the perception that only compensated work creates value. Therefore, articling and LPP/PPD students who have been victimized by those perceptions deserve to be compensated fairly for their labour which, during the articling period, is long and intensive and often far exceeds a normal working day.

## Conclusion

The current landscape of experiential learning options for licensing candidates and would-be principals has now alleviated the OBA's prior concerns regarding potential loss of positions. Furthermore, the Student Section of the OBA overwhelmingly supported MMC. Given both of these developments, the OBA supports mandatory minimum compensation for experiential training for licensing candidates. We thank you for considering our input and look forward to responding to any questions you may have regarding our submission.

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<sup>5</sup> LSO, [Rights of appearance](#)