

MINUTES OF SPECIAL CONVOCATION

Wednesday, 11th November, 1998
9:45 a.m.

PRESENT:

The Treasurer (Harvey T. Strosberg, Q.C.), Adams (conference call), Armstrong, Arnup, Backhouse, Banack, Carey, Carter, R. Cass, Cole, Copeland, Cronk, Crowe, DelZotto, Eberts, Finkelstein, Gottlieb, Jarvis, Krishna, Lawrence, MacKenzie, Marrocco, Millar, Murphy, O'Brien, Puccini, Ross (conference call), Ruby, Sachs, Scott, Stomp, Swaye (conference call), Topp (conference call), Wilson and Wright.

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The reporter was sworn.

THE FOLLOWING REPORT WHICH WAS
ORIGINALLY RECEIVED IN CAMERA
WAS MADE PUBLIC AFTER THE STUDENTS'
MARKS WERE POSTED

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IN PUBLIC

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The following Report was received in camera because the marks had not been released to students. The Report was made public after the students' marks were posted.

Report of the Admissions and Equity Committee

Re: Bar Admission Course - Setting of the Passing Standard

Ms. Sachs presented the Report and Recommendations of the Admissions and Equity Committee.

RECOMMENDATION FROM
THE DEPARTMENT OF EDUCATION
REGARDING EXAMINATION PASSING MARKS
Bob Bernhardt - Acting Director of Education

The staff within the Department of Education is concerned that in our attempts to provide students with better support for their learning within the Bar Admission Course, and for their performance on the Bar Admission Examinations, we have created a situation that has resulted in dramatic increases in the examination passing marks. Furthermore, we believe that these increases will be perceived as unfair and unnecessarily punitive by the students.

BACKGROUND:

In its report to Convocation on September 25, 1998, the Admissions and Equity Committee committed to the examination of other testing mechanisms for evaluating competency. The Committee is carrying out this mandate both with respect to the overall review of the Bar Admission Course, as well as examining the current practice.

In examining the current practice it has become clear that the evaluation standards for the examinations within Phase 3 of the Bar Admission Course are for the most part not competency based. (One third of the examination standard for the examinations in the French language are based on an holistic criteria that is competency based.) The norm referenced approach will pass and fail roughly the same proportions of students regardless of whether the students have all comprehended a course, or whether substantial numbers of them require greater study. Although the intent of norm referencing was to ensure that the passing rates did not alter dramatically if an examination was too easy, or too hard, the result has been to practically ensure a constant failure rate.

This year students appear to be having considerably greater success in examinations. Among other complaints in the past, students argued that their examination performance was hindered by insufficient time, a lack of appropriate practice examinations, and an inability to review their examinations and learn from their mistakes. Each of these concerns has been addressed and perhaps as a result, the level of achievement has risen. The students are questioning why the elimination of these barriers should lead to higher passing standards. If these items were unnecessary barriers on the road to demonstrating competence, the removal of them should not, in and of itself, demand a higher passing standard. Stated differently, if the concern is the demonstration of competence, the removal of these unnecessary barriers should not result in an enhanced passing standard. The problem is that the norm referenced approach to passing is not focussed on competency.

It has become clear to the staff within the Department of Education that the current methodology is creating a situation that is increasing passing standards beyond levels that are reasonable or desirable. To correct this the staff suggests that a cap be established for the maximum level to which the norm referenced passing standard can rise. If a cap of 60% had been applied over the last two years, only one exam would have had the passing standard altered. (See the attached chart for a history of the examination results.) The Real Estate course in 1996 was the only course with a passing standard of over 60%. This year, for examinations written in the English language, norm referencing will set the passing standard for Professional Responsibility at 66%, Civil Litigation at 71% and Public Law at 75%. Another suggestion is to move to the borderline group methodology that is being applied to the French language examinations. Although this is effective for essay and short answer exams, it is more difficult to apply for multiple choice examinations.

Recommendation 1:

Set a maximum of 60% for the passing standard that students must achieve to pass an exam for examinations within the current Phase 3. If the current methodologies for establishing the standards (norm referencing, and the methodology for the French examinations) establish a passing standard below 60%, this proposal will not alter that standard.

In general, the establishment of examinations that reflect the competencies that one expects for entry into practice is a complex task which requires fine tuning depending upon the nature of the instruments applied and the circumstances under which the testing occurs. This is not an environment that is well suited to an immutable standard for all situations. As a result, the following proposal is intended to ensure that accountability for choosing and administering appropriate tools for examining competence lies with the individuals with the opportunities and expertise to devise the appropriate processes and instruments.

Recommendation 2:

It is recommended that the Director of Education, through the CEO, be held accountable for the design and implementation of appropriate tools for testing and measuring competence in the Bar Admission Course. The determination of appropriate passing standards are to be based upon the testing method applied, and the nature of the competence expected. The Admissions and Equity committee will oversee the staff in the exercise of this accountability.

Attached to the original Report in Convocation file, copy of:

Chart entitled BAC Examination Passing Scores 38th BAC (1996), 39th BAC (1997), and 40th BAC (1998)

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Recommendation 1 was amended by changing 60% to 65%.

Mr. Bob Bernhardt, Acting Director of Education reported on the concerns of the Bar Admission Task Force in the setting of the passing standard in the current Bar Admission Course.

It was moved by Ms. Sachs, seconded by Mr. Carey that the following Recommendations 1 and 2 set out in the Report be adopted :

Recommendation 1

Set a maximum of 65% for the passing standard that students must achieve to pass an exam for examinations within the current Phase 3.

Not Put

Recommendation 2

That the Director of Education, through the CEO, be held accountable for the design and implementation of appropriate tools for testing and measuring competence in the Bar Admission Course. The determination of appropriate passing standards are to be based upon the testing method applied, and the nature of the competence expected. The Admissions and Equity committee will oversee the staff in the exercise of this accountability.

Not Put

A debate followed.

It was moved by Mr. Ruby, seconded by Mr. Finkelstein that the passing mark be 60% for French and English.

Not Put

Convocation adjourned at 10.45 a.m. for the Remembrance Day service.

CONVOCATION RECONVENED AT 2:00 P.M.

PRESENT:

The Treasurer, Adams (conference call), Armstrong, Arnup, Backhouse, Banack, Carey, Carter, R. Cass, Cole, Copeland, Cronk, Crowe, DelZotto, Eberts, Elliott, Epstein, Finkelstein, Gottlieb, Lamek, Lawrence, Legge, MacKenzie, Marrocco, Millar, Murphy, O'Brien, Puccini, Ross (conference call), Ruby, Sachs, Scott, Stomp, Topp (conference call), Wilson and Wright.

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Report of the Admissions and Equity Committee (cont'd)

The debate continued on the evaluation standards for the examinations within Phase 3 of the current Bar Admission Course.

It was moved by Mr. Wilson but failed for want of a seconder that the Education Department provide to Convocation a revised program to assess the competence of those students who failed exams under norm referencing.

It was moved by Mr. DelZotto, seconded by Mr. Cole that the Education Department abandon norm referencing and that the marks be set on a course by course basis at the discretion of the Education Department and that an appeal process be established for those students that fail.

An amendment to the DelZotto/Cole motion was accepted by the mover and seconder that the setting of marks by the Education Department be overseen by the Admissions and Equity Committee.

Carried

The Treasurer called for a vote on the motion that once the students' marks are posted that the transcript be made available.

Carried

It was moved by Mr. Ruby, seconded by Ms. Cronk that the results of today's proceedings and the report be made public.

Not Put

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IN CAMERA

IN CAMERA Content Has Been Removed

CONVOCATION ROSE AT 3:05 P.M.

Confirmed in Convocation this *22* day of *January*, 1998⁹

Harvey T. Stuebs
Treasurer