



# National Committee on Accreditation (NCA)

## Policy Manual

In effect July 21, 2020

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*For additional information about the NCA and its processes, and to access the required forms, please visit our web site*



## **ASSESSMENT POLICY**

### **1. General Information**

#### ***1.1 Purpose and Scope***

Applicants to the National Committee on Accreditation (“NCA”) are individuals who seek to practice law in a Common Law Jurisdiction in Canada, but were not trained in an Approved Canadian Common Law Program. This Assessment Policy outlines the criteria and processes for assessing the Qualifications of these Applicants for the purposes of granting a Certificate of Qualification. A Certificate of Qualification permits an Applicant to apply to a bar admission program in a Canadian Common Law Jurisdiction.

#### ***1.2 Application***

This policy applies to individuals who obtained their legal education from an institution outside of Canada or a Canadian Civil Law program. It does not apply to graduates of Canadian Common Law Programs (LL.B. or J.D.) approved by the Federation of Law Societies of Canada (“Federation”). It also does not apply to individuals seeking to practice law in the province of Quebec (see the Barreau du Quebec).

#### ***1.3 Definitions***

In this Assessment Policy, unless the context requires otherwise:

“**Additional Legal Studies**” means courses taken at an Approved Law School or Approved Canadian Common Law Program, or as part of a licensure process in a Common Law Jurisdiction.

“**Additional Legal Subject**” means a subject listed in section 6.3.

“**Advanced Standing**” means credit given for a course completed in one program so that the same course need not be completed in another program.

“**Applicant**” means a person who has applied to the NCA for an assessment of their Qualifications in accordance with this policy.

“**Approved Canadian Common Law Program**” means a Canadian common law program approved by the Federation.

“**Approved Law School**” means a university-level law school approved by the Regulatory Authority in the Relevant Jurisdiction.

“**Assessment Report**” means the final report issued to an Applicant outlining the requirements they must complete in order to qualify for a Certificate of Qualification.

“**Certificate of Qualification**” or “**CQ**” means the certificate issued to an Applicant who has demonstrated, in accordance with this policy, and to the Executive Director’s satisfaction, that they possess the legal knowledge, understanding and skills set out in the National Requirement.

“**Common Law Jurisdiction**” means a jurisdiction listed in Appendix A to this policy.



**“Core Subject”** means a subject listed in section 5.2.

**“Executive Director”** means the individual designated from time to time by the Federation to oversee the application of this policy, and includes individuals working under the direction of the Executive Director as permitted in section 1.4.

**“Issuing Institution”** means the institution or organization that issued the law degree or license under Assessment.

**“Law Society”** means the licensing body responsible for regulating the legal profession in a specific Canadian common law province or territory.

**“Mandatory Subject”** means a Core Subject that focusses on specific Canadian law content that all Canadian common law graduates are required to successfully complete prior to entering the legal profession.

**“Mixed Law Jurisdiction”** means a jurisdiction listed in Appendix B to this policy.

**“National Requirement”** means the national standard approved by the Federation that all graduates of Canadian Common Law Programs and all Applicants must meet prior to entering a law society bar admission program. This standard specifies the knowledge and skills required of graduates and Applicants, as well as the learning resources law schools must have in place.

**“Non-Common Law Jurisdiction”** means a jurisdiction that is not listed in Appendix A or B.

**“Official Document”** means a document sent directly from the Issuing Institution that bears the proper seals and signatures.

**“Original Document”** means a document that may be sent by the Applicant but bears the proper seals and signatures of the Issuing Institution and is not a photocopy, or a notarized or certified copy.

**“Professional Legal Experience”** means experience practicing as a licensed lawyer in a Common Law Jurisdiction or teaching in an Approved Common Law School / Program.

**“Qualifications”** includes an Applicant’s legal education, licensure, bar admission certification and/or Professional Legal Experience.

**“Qualifying Law Degree”** means a first law degree, typically (but not exclusively) an LL.B. or J.D., that has been approved by the Regulatory Authority in the Relevant Jurisdiction.

**“Regulatory Authority”** means an authority that is authorized to regulate entry into the legal profession in the Relevant Jurisdiction, as determined by the Executive Director.

**“Relevant Jurisdiction”** means the geographic location in which the Approved Law School or Qualifying Law Degree program is located.



### ***1.4 Authority to Delegate***

The Executive Director may delegate responsibilities for the application of this policy to individuals under the Executive Director's direction.

## **2. Eligibility to Apply to the NCA**

To be eligible to apply to the NCA an Applicant must have a Qualifying Law Degree, the usual designations for which are LL.B, J.D., B.C.L., and LL.L. For the purposes of this policy, a graduate-level law degree, such as a master's degree (LL.M.), that was obtained following a non-law undergraduate university degree will not qualify, except when it is a Qualifying Law Degree in the Relevant Jurisdiction.

## **3. Assessment Criteria**

### ***3.1 General***

Each application is evaluated on an individual basis. All Applicants must demonstrate that they have acquired the competencies and skills equivalent to those required of graduates of Approved Canadian Common Law Programs, as set out in the National Requirement, to be eligible for a Certificate of Qualification.

### ***3.2 Assessment Criteria***

The following criteria will be used in the assessment of an Applicant's Qualifications:

- Pre-Law Education
- Legal Education
  - Academic program completed
  - Substantive legal knowledge requirements
  - Length of academic program
  - Mode of study
  - Academic performance
  - Currency of Qualifications
- Skills Competencies
  - Problem solving
  - Legal research
  - Oral and written communications
- Language Proficiency in English or French

## **4. Pre-Law Education**

### ***4.1 Length of Study***

Applicants must demonstrate that they have successfully completed a minimum of two (2) years of fulltime (or equivalent) post-secondary education at a university recognized by the post-secondary educational authority in the Relevant Jurisdiction prior to attending law school. Applicants who do not meet this requirement will be assigned Additional Legal Subjects, which must be successfully completed along with any other requirements set out in the Assessment Report, to compensate for this deficiency (see section 6.3).



## **4.2 Waiver of Requirement**

The NCA may waive this requirement when the Applicant:

- (a) possesses a law degree from a program longer than three (3) years in duration (e.g. an integrated B.A./LL.B. that is four (4) or more years in length or its equivalent);
- (b) has, subsequent to obtaining their law degree, successfully completed additional university education including baccalaureate or graduate-level studies in any field (e.g. B.A., LL.M., MBA);
- (c) has, subsequent to obtaining their law degree, successfully completed a bar admission course or other legal education program required for licensure as a lawyer, barrister or solicitor; or
- (d) has a minimum of five (5) years of Professional Legal Experience as defined in section 1.3.

## **5. Legal Education**

### **5.1 Academic Program Completed**

To be recognized as a Qualifying Law Degree an Applicant's legal education must have been completed at an institution and/or law program approved, recognized, accredited or otherwise accepted by the Regulatory Authority, or its delegate, in the Relevant Jurisdiction and must qualify the Applicant for licensing in that jurisdiction.

#### **5.1.1 Advanced Standing**

If an Applicant transferred to a different educational institution part-way through their law program and was given Advanced Standing for courses completed in the previous program, those courses will only be recognized if both institutions are approved, recognized or accredited to provide Qualifying Law Degrees in the Relevant Jurisdiction.

#### **5.1.2 Exception**

Licensure through substantive examination or course work by another Regulatory Authority may compensate for completion of a law program that is not approved, recognized or accredited by the Regulatory Authority or its delegate for the Relevant Jurisdiction. However, in such circumstances, none of the Core Subjects completed during the Applicant's legal education will be accepted.

### **5.2 Substantive Legal Knowledge Requirements**

Applicants must demonstrate competence in eight (8) substantive common law knowledge areas or "Core Subjects". These are the same subjects required of all Canadian common law graduates.

The eight (8) Core Subjects are:

- (a) Canadian Administrative Law
- (b) Canadian Constitutional Law
- (c) Canadian Criminal Law
- (d) Canadian Professional Responsibility
- (e) Foundations of Canadian Law
- (f) Contracts
- (g) Property
- (h) Torts



Competence in the five (5) Core Subjects with Canadian-specific content (Canadian Administrative Law, Canadian Constitutional Law, Canadian Criminal Law, Canadian Professional Responsibility and Foundations of Canadian Law) must be demonstrated through the successful completion of NCA exams or courses in Approved Canadian Common Law Programs (see sections 17 and 18 for more information). Courses in these subjects taken in international law programs will not be considered.

The NCA will accept successful completion of the remaining Core Subjects if completed as part of a law degree or licensing process in a Common Law Jurisdiction; otherwise, Applicants must demonstrate competence in the above-named ways.

### **5.2.1 Applications from Common Law Jurisdictions**

An Applicant may demonstrate competence in Contracts, Torts and Property by successfully completing courses in those subjects as part of a law degree or licensing process in a Common Law Jurisdiction (see Appendix A), subject to the mode of study and academic performance requirements outlined in section 7 and section 8, respectively.

### **5.2.2 Applications from Mixed Law Jurisdictions**

An Applicant from a Mixed Law Jurisdiction (see Appendix B) will be assessed on the basis of the common law content of their Qualifications. In addition to being required to demonstrate competence in the eight (8) Core Subjects, such Applicants may be required to demonstrate competence in Additional Legal Subjects if it is determined they have had insufficient exposure to the common law.

### **5.2.3 Applications from Canadian Civil Law Graduates**

The NCA recognizes the significant Canadian common law component of the legal education of Applicants with a Qualifying Law Degree from a civil law program at a Canadian law school. Although there are significant differences between the common law (used everywhere in Canada) other than Quebec, and the civil law (used in Quebec) all public law in Quebec is based on the common law system.

#### **5.2.3.1 Applicants Licensed by the Barreau du Quebec**

Consistent with the provisions of the National Mobility Agreement 2013, which recognizes the significant overlap in the training in Canadian common law and Canadian civil law programs, an Applicant with a Qualifying Law Degree from a program at a Canadian civil law school who holds a licence from the Barreau du Quebec will automatically receive a Certificate of Qualification upon review of their completed application.

#### **5.2.3.2 Unlicensed Canadian Civil Law Graduates**

An Applicant with a Qualifying Law Degree from a civil law program at a Canadian law school who does not hold a licence from the Barreau du Quebec will be required to demonstrate competence in the following subjects, unless they were completed in an Approved Law School or Qualifying Law Degree program in a Common Law Jurisdiction:

- Contracts
- Torts
- Property
- Canadian Professional Responsibility (*if not successfully completed during the Applicant's Canadian civil law education*)



### **5.2.4 Applications from Non-Common Law Jurisdictions**

Graduates of non-common law degree programs (e.g. civil law, customary law) outside of Canada will not receive recognition for their education unless they have sufficient exposure to the common law, which may be obtained in the following ways:

1. A common law degree (i.e. LL.B., BCL, J.D., course-based LL.M.). An LL.M. with a focus in International Law will not normally provide sufficient exposure to the common law, regardless if it was completed in a Common Law Jurisdiction. However, the Executive Director will review all transcripts to determine if some of the courses completed can satisfy NCA requirements. Doctorate degrees (i.e. PhD) will not normally be considered.
2. Licensure as a lawyer, solicitor or barrister in a Common Law Jurisdiction through the successful completion of substantive course work and/or examinations.
3. Qualification as a paralegal or notary in a Common Law Jurisdiction. However, completion of the studies required to obtain certification as a paralegal or notary will not exempt an Applicant from the requirement to complete all eight (8) Core Subjects.

Exposure to the common law in the above-mentioned ways is considered strictly for the purposes of enabling non-common law graduates to proceed in the NCA assessment process. Applicants with sufficient exposure to the common law will be required to demonstrate competence in all eight (8) Core Subjects, plus any Additional Legal Subjects deemed necessary in light of their Qualifications.

## **6. Length of Law Program**

### **6.1 General**

Applicants are required to have completed three (3) years (or the equivalent number of course credits) in their jurisdiction of study. This is consistent with the requirement for Approved Canadian Common Law Programs.

### **6.2 When Requirement is Not Met**

If an Applicant completed a law degree that is fewer than three (3) years in length, they will be required to demonstrate competency in at least one of the following ways:

1. Completion of Additional Legal Subjects through successful completion of NCA exams or courses or a program (J.D., LL.B., LL.M., bar admission program) deemed acceptable by the Executive Director, such as:
  - (a) A program at a Canadian law school, approved by the Federation.
  - (b) A common law program from another country approved by the Regulatory Authority in the Relevant Jurisdiction.
  - (c) A mixed law or non-common law program.
2. Five (5) years of Professional Legal Experience.



### **6.3 Additional Legal Subjects**

When Additional Legal Subjects must be assigned, the Executive Director will select from the following list:

- (a) Business Organizations
- (b) Civil Procedure
- (c) Commercial Law
- (d) Evidence
- (e) Family Law
- (f) Remedies
- (g) Tax Law
- (h) Trusts

The number of Additional Legal Subjects assigned will depend on the length of the law program completed.

In most cases, the Assessment Report will provide the Applicant with options for which subject(s) they may complete. However, Applicants will not be assigned subjects that they successfully completed during their legal education.

## **7. Mode of Study**

### **7.1 In-class Learning Requirement**

The National Requirement specifies that two-thirds (or two out of three years) of an Applicant's law degree must have been obtained through in-person instruction or instruction involving direct interaction between instructor and students in an Approved Law School or Qualifying Law Degree program.

To be recognized as meeting this requirement, a course that is not delivered in-person must meet the following criteria:

- I. **“Interactive online courses”** means courses taught using online media that include direct interaction between student and instructor and that are part of a Qualifying Law Degree, or an Approved Canadian Common Law Program, that consists of no less than 50% in person instruction.
- II. Interactive online courses **must** include a majority of the following components:
  - a. reliable access for instructor and students to all media and applications used in the delivery of the course;
  - b. a synchronous element providing direct interaction between instructor and students that accounts for no less than 1/3 of the scheduled course hours;
  - c. mechanisms to ensure students satisfy the 1/3 requirement;
  - d. mechanisms to provide formative feedback to students;
  - e. mechanisms to assess student progress, which may include assignments, inclass presentations, or in-class participation;
  - f. methods to assist students in developing oral communications skills including in-class participation, presentations or participation in discussion-groups;
  - g. methods of assessment that:



- i. are developed by the instructor;
  - ii. are monitored by the instructor or their delegate;
  - iii. ensure students satisfy the relevant elements of the National Requirement;
  - iv. provide some guarantee against academic misconduct; and
  - v. are assessed by the instructor.
- h. ready access for students to on-line legal resources including:
- i. Case law for the relevant jurisdiction;
  - ii. Legislation for the relevant jurisdiction;
  - iii. Research tools including digests, loose-leaves or forms;
  - iv. Treatises for the relevant jurisdiction; and
  - v. Leading journals for core subjects.

III. Interactive on-line courses should include opportunities for students to develop legal problem solving and legal communications skills.

The Executive Director will take all evidence obtained directly from the Issuing Institution into consideration to determine whether the in-class/interactive learning requirement has been satisfied. In particular, in assessing whether an interactive online course complies with the NCA Assessment Policy, the Executive Director will consider:

- a. The total course hours;
- b. The number of hours of synchronous contact and the nature of that contact;
- c. The nature and extent of all direct contact between the instructor and students;
- d. The number and nature of assessments and whether they are of a type that permits the instructor to determine whether a student satisfies the relevant elements of the National Requirement;
- e. Whether students have online access to core legal materials; and
- f. Whether the course is part of a program that consists of no less than 50% in person instruction.

An Applicant who holds a law degree that does not meet the in-class/interactive learning requirement (i.e., distance education) must successfully complete two (2) years in a law program acceptable to the NCA, in addition to any other requirements identified by the Executive Director. However, the two-year requirement may be reduced if an Applicant has received some in-person or interactive online instruction in an Approved Law School or Qualifying Law Degree program.

If an Applicant is not able to complete all assigned NCA subjects through in-person instruction, they may be satisfied through the NCA exams.

### **7.1.1 Exception**

Completion of Additional Legal Studies in an Approved Law School or Qualifying Law Degree program will count towards the in-class requirement if delivered in person or through interactive online instruction that meets the criteria in this Policy. The Executive Director will also review any Core Subjects successfully completed in the common law as part of those studies.



## **8. Academic Performance**

### **8.1 General**

Academic performance is an indicator of an Applicant's command of the legal concepts covered during their legal education. An Applicant's overall academic performance during their law degree (e.g., passing grade or average) and their academic performance in individual Core Subjects will be assessed. An Applicant must first demonstrate acceptable overall academic performance before academic performance in individual Core Subjects will be assessed.

### **8.2 Overall Academic Performance**

To be considered acceptable, an Applicant's overall academic performance must qualify them for admission to the bar in the Relevant Jurisdiction. An Applicant with unacceptable overall academic performance will not receive any recognition for that degree. By way of examples, Third Class or Pass degrees under the British system of legal education and a GPA of less than 1.0 in Australia and the United States, do not qualify as acceptable academic performance.

#### **8.2.1 Exception**

Poor overall academic performance may only be remedied if the Applicant has completed Additional Legal Studies. When Additional Legal Studies have been completed, the Applicant will be assessed, but will receive no credit for any of the courses taken during the first law degree. Any Core Subject(s) completed during Additional Legal Studies will, however, be considered in the Assessment.

### **8.3 Academic Performance in Core Subjects**

An Applicant must demonstrate acceptable academic performance in Contracts, Torts and Property. A failing grade or a grade that is less than five percent (5%) above the passing grade at the institution of study constitutes unacceptable academic performance.

#### **8.3.1 Exception**

Poor academic performance in a Core Subject may only be remedied through successful completion of the subject during Additional Legal Studies.

## **9. Currency of Legal Qualifications**

### **9.1 Currency**

An Applicant's Qualifications must be current at the time of application. For the purposes of this policy, "current" means completed within the last five (5) years. If an Applicant completed law school more than five (5) years prior to applying to the NCA, and they do not have legal work experience satisfactory to the Executive Director, during at least three (3) of the last five (5) years, the Applicant's Qualifications will be considered "stale" and they will be assigned additional subjects.



## **9.2 Assignment of Additional Subjects**

One of Contracts, Torts, and Property will be assigned for each five (5) year period that the Applicant does not have current Qualifications, up to fifteen (15) years. If some, or all, of these subjects have already been assigned, Additional Legal Subjects will be drawn from the list in section 6.3. If more than fifteen (15) years have passed, the Applicant will be required to complete a minimum of four (4) subjects, with the final number determined by the Executive Director. When more than ten (10) subjects in total have been assigned, the Executive Director will require the Applicant to complete them, or acceptable alternatives, at an Approved Law School or Qualifying Law Degree program.

## **10. Other Competencies**

An Applicant must demonstrate competence in problem solving, legal research, and oral and written communications in accordance with the National Requirement.

### **10.1 Problem Solving**

To have demonstrated competence in problem solving, an Applicant must be able to:

- (a) identify relevant facts;
- (b) identify legal, practical, and policy issues and conduct the necessary research arising from those issues;
- (c) analyze the results of research;
- (d) apply the law to the facts; and
- (e) identify and evaluate the appropriateness of alternatives for resolution of the issue or dispute.

Successful completion of the requirements assigned in an Applicant's Assessment Report satisfies this criterion.

### **10.2 Legal Research**

To have demonstrated competence in legal research an Applicant must be able to:

- (a) identify legal issues;
- (b) select sources and methods and conduct legal research relevant to Common Law;
- (c) use techniques of legal reasoning and argument, such as case analysis and statutory interpretation, to analyze legal issues;
- (d) identify, interpret and apply results of research; and
- (e) effectively communicate the results of research.

Applicants who have successfully completed their legal education and NCA assigned subjects will be deemed to satisfy this requirement. The NCA reserves the right to introduce other tools for assessing an Applicant's legal research skills from time to time.



### **10.3 Oral and Written Communications**

To demonstrate competence in oral and written communications in English or French, the Applicant must be able to:

- (a) identify the purpose of the proposed communication;
- (b) use correct grammar, spelling and language suitable to the purpose of the communication and for its intended audience; and
- (c) effectively formulate and present well-reasoned and accurate legal argument, analysis, advice or submissions.

The NCA reserves the right to introduce other tools for assessing an Applicant's oral and written communications skills from time to time.

## **11. Language Proficiency Requirement**

### **11.1 Language Requirement**

All Applicants are required to demonstrate proficiency in communicating in at least one of Canada's official languages.

An Applicant will be considered to have demonstrated the required proficiency in English or French if:

- (a) the language of instruction of the Applicant's legal academic qualifications was English or French, and
- (b) such qualifications were obtained in a country where English or French is an official language.

### **11.2 When Requirement is Not Met**

An Applicant who does not meet the requirement will be required to complete one of the following tests, unless they can demonstrate that they have already completed one within the three (3) years immediately preceding the NCA's receipt of their application:

- (a) For English, the International English Language Testing System (IELTS) test with a minimum score of 7.0 across all of the following elements: writing, speaking, reading and listening.
- (b) For French, TESTCan with a minimum score of 4.5 across all of the following elements: writing, speaking, reading and listening.

Applicants who have completed one of the above tests prior to applying to the NCA must arrange for all documentation showing proof of their completion to be sent directly to the NCA. The minimum scores prescribed above still apply.



## **12. Application Process**

### **12.1 How to Apply**

Applicants must complete an online application using the NCA web-based platform at this [link](https://ncaportal.flsc.ca/CandidatePortal/Login), ([ncaportal.flsc.ca/CandidatePortal/Login](https://ncaportal.flsc.ca/CandidatePortal/Login)). Once completed, Applicants will be assigned a file I.D. and a password that will enable them to access their candidate profile to track and monitor their application.

### **12.2 Documents Required**

Applicants are responsible for arranging for all documentation listed in the application form to be sent to the NCA by the method(s) specified in this policy.

In order to assess an Applicant's legal qualifications, they must submit:

- the required written application and fees online;
- all Original transcripts for courses completed during their pre-law (university) education (when applicable);
- all Official transcripts related to courses completed in a law school, and courses or examinations completed in a licensing process;
- any documentation related to the Applicant's standing with the bar in the Relevant Jurisdiction (if licensed); and
- an updated curriculum vitae outlining their Qualifications.

### **12.3 Methods for Submitting Documents**

While the NCA prefers to receive pre-law university transcripts from the Issuing Institution, Applicants may submit these Original Documents directly.

Law school transcripts and all licensing-related documents must be sent directly from the Issuing Institution(s) to the NCA by post, courier or through a secured document sharing system. It is the responsibility of the Applicant to contact the Issuing Institution(s) to make the necessary arrangements. The NCA will not accept these documents if they are submitted by the Applicant.

Applicants are responsible for ensuring all of the proper documentation has been submitted and that their application is complete. Should an Applicant have any questions about the application process or fees, they should communicate directly with the NCA.

#### **12.3.1 Refugee Applicants**

While refugee Applicants are encouraged to submit the application materials in section 12.2, the NCA will work with each Applicant to determine suitable alternative documentation, if they are unable to obtain documents from their home. When this occurs, refugee Applicants will be required to present proof of refugee status, along with any other documentation the NCA determines is needed for an Assessment.

### **12.4 Privacy**

For security and privacy reasons, the NCA cannot provide any information relating to an Applicant's file to family members or friends who may be inquiring on an Applicant's behalf, unless the Applicant authorizes the release of the information in writing.



## **13. Assessment Process**

### ***13.1 General***

An Applicant's Qualifications will be assessed by the NCA in accordance with this policy, and any other NCA policies in force at the time of the Assessment, after all required fees have been paid and all relevant documents have been received by the NCA.

### ***13.2 Older Policies do not Apply***

The NCA will not apply older policies to current applications, nor will it waive requirements assigned under previous policies should the policy change after an Assessment Report has been issued.

### ***13.3 Timing of Assessment***

Applications are assessed within **four (4) to six (6) weeks** of receiving all required documentation.

### ***13.4 Assessment Report***

Following an assessment of the criteria outlined in section 3, a written Assessment Report specifying what requirements the Applicant must complete in order to receive a Certificate of Qualification will be issued to the Applicant. The Assessment Report will also include the reasons for the decision, and how the Applicant can complete the assigned requirements.

Once an Applicant receives their Assessment Report, they will be eligible to register for NCA exams.

### ***13.5 Assessment Validity***

An Applicant's assessment will be valid for a period of five (5) years from the date it is issued by the Executive Director. The Executive Director has the discretion to extend the five (5) year period upon review of an Applicant's written request outlining the reasons for extension.

## **14. Assessment Review**

### ***14.1 Requests for Review***

An Applicant who has documentation or information related to their legal education, licensure, or professional experience as a lawyer in a Common Law Jurisdiction that was not submitted as part of their application, and which the Applicant believes may alter the assessment decision, may request a review of their Assessment.

### ***14.2 Submitting a Request for Review***

A request for a review must be made in writing to the Executive Director and must include the relevant information or documentation that was not provided in the original application. Information related to courses completed in a law school, or courses or examinations completed in a licensing process must be sent directly from the Issuing Institution to the NCA.



### ***14.3 Review by Executive Director***

The Executive Director will review the new documentation or information to determine whether it alters the original Assessment. The Executive Director will inform the Applicant in writing of the outcome of the review and, when the assessment has changed, will issue an amended Assessment Report.

### ***14.4 Timing for Review***

Applicants may request a review within **thirty (30) days** of receiving the Assessment Report. A review will be completed within **four (4) to six (6) weeks** from the time it is received by the NCA.

No additional fees are required for a review of an NCA Assessment.

## **15. Assessment Reconsideration**

### ***15.1 Requests for Reconsideration***

Applicants may request reconsideration of their assessment if, following receipt of their Assessment Report, they completed Additional Legal Studies in a Common Law Jurisdiction that they believe may satisfy some of the requirements assigned.

### ***15.2 Submitting a Request for Reconsideration***

An Applicant submitting a request for reconsideration must follow the process outlined in section 14.2.

### ***15.3 Review by Executive Director***

The Executive Director will review the Additional Legal Studies completed to determine whether some of the assigned requirements may be waived. The Executive Director will inform the Applicant in writing of the outcome of the reconsideration and, when subjects have been waived, the NCA will update the Applicant's candidate profile to reflect this change.

### ***15.4 Timing for Reconsideration***

Applicants may submit a request for reconsideration at any time while their Assessment remains valid. A review will be completed within **four (4) to six (6) weeks** from the time it is received by the NCA.

## **16. Appealing an Assessment**

### ***16.1 General***

Applicants may appeal their original assessment or assessment review decision in accordance with the Assessment Appeal Policy (please see page 18) in effect at the time of appeal.

### ***16.2 Appeal of Reconsideration under Section 15***

Applicants may appeal the assessment reconsideration decision in section 15, but the appeal will be limited to a review of the new Qualifications obtained.



## **17. NCA Examinations**

### ***17.1 Registration***

An Applicant is permitted to register for examinations only after they have received their Assessment Report. The NCA offers four (4) exam sessions per year and registration opens approximately **four (4) to six (6) weeks** before a session.

#### ***17.1.1 Failed Exams***

An Applicant who chooses to satisfy additional subject requirements through NCA exams must successfully complete those subjects before a Certificate of Qualification can be issued. If an Applicant fails an exam, they must clear the failure by successfully completing the exam in that subject; they will not be permitted to pursue a different exam subject.

### ***17.2 Examination Attempts***

An Applicant is permitted to write an NCA examination in a particular subject a maximum of three (3) times.

The Executive Director may grant an Applicant a fourth and final attempt of the NCA examination in an assigned subject in accordance with the following criteria:

- (a) The Applicant must submit a written request to the Executive Director;
- (b) The written request must include a remediation plan outlining how the Applicant intends to prepare for the final attempt. When the remediation plan includes additional training or engaging a tutor, supporting documents must be submitted directly to the NCA from the institution providing the training or the tutor;
- (c) The remediation plan must be approved by the Executive Director;
- (d) The approved remediation plan must be successfully completed by the Applicant with supporting documentation submitted directly to the NCA from the institution providing the training or the tutor; and
- (e) The Applicant must respond to any inquiries received from the Executive Director within the time specified by the Executive Director.

The Executive Director will notify the Applicant in writing of the decision.

### ***17.3 Exam Validity***

Exams must be successfully completed within five (5) years of the Applicant's Assessment. NCA exam results that are older than five (5) years will normally be considered stale-dated and will not satisfy the requirements. When the Executive Director has extended the period during which an assessment is valid, successful exam results achieved during the extended period will not be considered stale-dated even if older than five (5) years.



## **18. Law School Courses**

### ***18.1 Approval for Courses Required***

Applicants may be required or may choose to complete law school courses or a law degree program in an Approved Canadian Law School. Prior to registering, an Applicant must request pre-approval of any law school courses taken to ensure they will satisfy the NCA requirements.

### ***18.2 Responsibilities of the Applicant***

It is the Applicant's responsibility to research law school courses and/or programs and to communicate directly with the law schools that they plan to attend. Upon completion of their requirements, Applicants must ensure that Official transcripts are sent to the NCA directly from the Issuing Institution.

## **19. Awarding a Certificate of Qualification (CQ)**

An Applicant will receive a CQ upon successful completion of the assigned requirements outlined in the Assessment Report. Once a CQ is issued, the Applicant is eligible to apply for entry to the licensing program of any of the Law Societies in Canadian Common Law Jurisdictions.

## **20. Coming Into Force**

These policies come into force effective September 1, 2019 and are subject to change at the NCA's discretion without notice.

If you are considering, or are currently, undertaking this process please consult this policy frequently. Any questions should be directed to the NCA ([nca@flsc.ca](mailto:nca@flsc.ca)).



# Appendix A

## List of Common Law Jurisdictions *(as of September 1, 2019)*

- Australia
- Bahamas
- Barbados
- Belize
- Bermuda
- Canada (except for Quebec, see Appendix B)
- Cayman Islands
- England
- Fiji
- Ghana
- Hong Kong
- India
- Ireland
- Jamaica
- Kenya
- New Zealand
- Nigeria
- Northern Ireland
- Pakistan
- Singapore
- Tanzania
- Trinidad and Tobago
- Uganda
- United States (except for Louisiana, see Appendix B)
- Wales



# Appendix B

## List of Mixed Law Jurisdictions or Jurisdictions with Substantial Common Law Content (as of September 1, 2019)

- Bangladesh  
(Please see [http://docs.flsc.ca/NCABangladeshJune2015\(1\).pdf](http://docs.flsc.ca/NCABangladeshJune2015(1).pdf))
- Botswana
- Cameroon
- Cyprus
- Guyana
- Israel
- Liberia
- Louisiana (USA)
- Malaysia
- Malta
- Mauritius
- Nepal
- Philippines
- Quebec (Province of Canada)
- Scotland
- Sierra Leone
- South Africa
- Sri Lanka
- St. Lucia
- Sudan
- Zimbabwe



## **ASSESSMENT APPEAL POLICY**

### **1. Introduction**

#### ***1.1 Application***

This Appeal Policy sets out the rules and procedures that govern all appeals of National Committee on Accreditation (NCA) Assessments.

#### ***1.2 General***

When the time for doing an act under this Policy expires on a holiday, the act may be done on the next day that is not a holiday.

#### ***1.3 Definitions***

In this Appeals Policy, unless the context requires otherwise:

“**Appeal Panel**” means the members of the NCA assigned to hear appeals as described in section 8 of this document.

“**Appeals Clerk**” means the clerk of the NCA responsible for coordinating the appeal.

“**Appellant**” means an individual filing an appeal.

“**Applicant**” means a person who has applied to the NCA for an Assessment of their Qualifications in accordance with the Assessment Policy.

“**Assessment**” means the assessment that was rendered by the Executive Director of the NCA upon review of an Applicant’s Qualifications.

“**Assessment Report**” means the final report issued to an Applicant outlining the requirements they must complete in order to qualify for a Certificate of Qualification.

“**Executive Director**” means the individual designated from time to time by the Federation to oversee the application of this policy.

“**File**” means to send appeal materials to the Appeals Clerk in the manner specified in this policy.

“**Holiday**” means a day set by the Government of Ontario as a statutory holiday.

“**Independent legal counsel**” means the lawyer or lawyers appointed to provide the Appeal Panel with advice.

“**Legal counsel**” means a lawyer authorized to practice law in one of the Canadian provinces or territories who has been retained by the Appellant.



## **2. Eligibility to Appeal**

An Applicant who receives an Assessment Report may appeal that Assessment in accordance with this Appeal Policy. (See Appendix C for a diagram of the review and appeal processes)

## **3. Mandatory Notice of Intention to Appeal**

### ***3.1 Mandatory Notice of Intent***

All Applicants who intend to appeal the decision set out in their Assessment Report, must submit a notice of intention to appeal to the Appeals Clerk within **thirty (30) calendar days** of either the date their Assessment Report is issued or of the date they receive a decision from a request for review or reconsideration under sections 14 and 15 of the NCA Assessment Policy.

### ***3.2 Review by Executive Director***

Upon receiving the notice, the Executive Director will review the Applicant's Assessment Report. The Executive Director may contact the Applicant within **fourteen (14) calendar days** to further explain the Assessment and NCA policies, discuss the outcome of similar appeals, and provide any other relevant information. When the Executive Director does not contact the Applicant, the appeal will proceed unless otherwise directed by the Applicant.

### ***3.3 Confirmation of Intention to Appeal***

Following the review by the Executive Director, the Appeals Clerk will send the Applicant an electronic notification requesting confirmation of their intention to proceed with the appeal and outlining the process and deadline for filing an appeal.

There is no cost to submit a notice of intention to appeal.

## **4. How to Appeal**

### ***4.1 General***

All Appellants must File the requisite appeal materials electronically through the NCA candidate portal. Any questions about submissions should be directed to the Appeals Clerk.

### ***4.2 Deadline for Filing Appeal***

Subject to section 4.3 an appeal must be filed **within 45 calendar days** from the date the NCA receives confirmation that the Appellant intends to proceed with the appeal. The Appellant must submit all the materials outlined in section 4.4 with the appeal, which must be filed by 11:59 p.m. (Eastern Standard Time) on the appeal deadline.

### ***4.3 Extension of Time***

An Appellant may apply for an extension of the time to File an appeal. A request for an extension must be made in writing to the Appeals Clerk. The decision to grant the extension will be at the sole discretion of the Chair of the NCA.



#### ***4.4 Required Appeal Materials***

An Appellant's appeal materials must be in writing and must contain:

- (a) the grounds for the appeal;
- (b) submissions in support of the Appellant's appeal to a maximum length of 20 pages, excluding exhibits; and
- (c) the appeal fee specified on the NCA website.

#### ***4.5 Format for Submitting Materials***

All appeal materials must be submitted in a single PDF.

#### ***4.6 Appellant Legal Counsel***

Appellants may retain Legal Counsel to represent them on appeal. The Appellant is responsible for all associated costs.

### **5. Materials Submitted to the Executive Director**

The Appeals Clerk will provide the Executive Director with a copy of the appeal materials within **seven (7) calendar days** of the filing of the appeal.

### **6. Response of the Executive Director**

#### ***6.1 Executive Director's Response***

The Executive Director must prepare a response in respect of each appeal received. The response must not exceed twenty (20) pages, excluding exhibits, and must be submitted to the Appeals Clerk within **twenty-one (21) calendar days** of receiving the appeal materials.

#### ***6.2 Response Sent to Appellant***

The Appeals Clerk will provide the Appellant with a copy of the Executive Director's response within **seven (7) calendar days** after receipt.

#### ***6.3 Appellant May Submit a Reply***

The Appellant may provide a reply by email to the Appeals Clerk within **fourteen (14) calendar days** of receiving the Executive Director's response. The reply will be copied to the Executive Director. Replies must be a maximum length of five (5) pages, excluding exhibits.

#### ***6.4 Extensions of time***

The Appellant and the Executive Director may apply for an extension to the time allowed for the submission of materials by filing a written request with the Appeals Clerk. Any extension will be granted at the sole discretion of the Chair of the NCA.



## **7. Materials Submitted to Appeal Panel**

### ***7.1 General***

The Appeals Clerk will schedule the appeal upon receipt of the Appellant's reply submissions, or the expiry of the time allowed for filing (whichever comes first), and will notify both the Appellant and the Executive Director of the date for the appeal.

### ***7.2 Timeframe for Forwarding Materials***

The Appeals Clerk will forward all appeal submissions and exhibits to the Appeal Panel at least **fourteen (14) calendar days** prior to the date of the appeal.

## **8. The Appeal Panel**

### ***8.1 Composition***

The Appeal Panel will be composed of three (3) members of the NCA, designated by the Chair.

### ***8.2 Meeting of the Appeal Panel***

Except as provided in section 9.2, the Appeal Panel may convene in any manner, including by teleconference, video conference, or in person.

### ***8.3 Role of the Appeal Panel***

The Appeal Panel will consider the materials filed on the appeal and will review the Assessment in accordance with the NCA's Assessment Policy.

### ***8.4 Power to Consult***

The Appeal Panel is entitled to consult Independent Legal Counsel at any stage of the appeal.

## **9. The Appeal**

### ***9.1 Appeal in Writing***

Except as provided for below, appeals will not be held in person. The Appeal Panel will only consider the written materials prepared and Filed in accordance with this Policy.

### ***9.2 Exception: Credibility Issues***

Where the Appeal Panel concludes that an individual's credibility is a material issue in an appeal, the Appeal Panel will convene an oral hearing and invite the Appellant, the Executive Director, and each of their Legal Counsel, to appear in person, give evidence, and make oral submissions.

**9.2.1** Any Appellant who appears before the Appeal Panel at an oral hearing will do so at their own expense (also see section 4.6).

**9.2.2** If an oral hearing is convened by the Appeal Panel, the Appeals Clerk will notify the Appellant and the Executive Director of the time and place of the appeal hearing no less than **fourteen (14) calendar days** before the scheduled hearing date.



### **9.3 When Additional Information is Required**

When the Appeal Panel has determined that there is insufficient information in the submitted appeal materials to render a decision, the Appeal Panel may remit the appeal to the Appeals Clerk to request further information from the Appellant and/or the Executive Director.

#### **9.3.1 Timeline for Gathering and Responding to Additional Information**

The Executive Director or the Appellant, as the case may be, must provide the additional information within **fourteen (14) calendar days**. The other party may provide a response to the additional information within **fourteen (14) calendar days** of receiving it. All communications will be directed through the Appeals Clerk.

#### **9.3.2 Reconsideration of Assessment by Executive Director**

Within **14 calendar days** of receiving additional information from the Appellant, including any response to information submitted by the Executive Director, the Executive Director will determine whether it merits revising the original Assessment.

**9.3.2.1** When the original Assessment is revised, the Appellant and the Appeal Panel will be notified within **fourteen (14) calendar days**. If the Appellant is satisfied with the revised Assessment no further action will be taken by the Appeal Panel.

**9.3.2.2** When the Appellant is not satisfied with the revised Assessment or the Assessment does not change, and the Appellant wishes to continue with the appeal, the Appeals Clerk will notify the parties within **seven (7) calendar days**. The Appeal Panel will consider all previous and new information as part of the appeal.

#### **9.3.3 Deadline for New Appeal Panel Meeting**

A new Appeal Panel meeting must be set no later than **fourteen (14) calendar days** from the time the Executive Director releases the reconsideration decision.

## **10. Decisions of the Appeal Panel**

### **10.1 Standard of Review**

The standard of review on appeal is a standard of reasonableness.

### **10.2 Where Assessment is Determined to be Reasonable**

When the Appeal Panel concludes that the Assessment was reasonable, it will uphold the decision of the Executive Director and the Assessment will remain in force.

### **10.3 When Assessment is determined to be Not Reasonable**

When the Appeal Panel concludes that the Assessment was not reasonable, it may:

- set aside all or part of the Assessment and issue a new Assessment; or
- set aside all or part of the Assessment and refer the matter back to the Executive Director with such directions as the Appeal Panel considers appropriate.



**10.4 Decisions to be made in Writing**

The Appeal Panel will issue a written decision to the Appeals Clerk who will provide it to the Appellant electronically.

**10.5 No further right of appeal**

The decision of the Appeal Panel is final and binding on all parties. There is no further right of appeal.