

## Frequently Asked Questions

### Mandatory Indigenous Cultural Competency Education

Updated December 8, 2020

*The Law Society of Alberta has approved the introduction of mandatory Indigenous Cultural Competency education for all active Alberta lawyers beginning in spring 2021. When this education was approved at the October 1, 2020 Benchers meeting, the Law Society committed to thoughtfully considering the program details and these details were approved at the December 3, 2020 Benchers meeting. The approved parameters and background information is outlined below.*

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#### Program Details

**1. When will the Indigenous Cultural Competency education be available to Alberta lawyers?**

Our plan is to launch The Path (Alberta) in spring 2021.

**2. Why did the Law Society specifically choose The Path (National) program for Indigenous Cultural Competency education?**

[The Path](#) (National) is well-regarded across Canada and has the endorsement of the Canadian Bar Association (CBA).

The Path (National) was vetted by Indigenous lawyers and by our Indigenous Advisory Committee. Within the Law Society, it was also vetted by the Lawyer Competence Committee (LCC), the Indigenous Initiatives Liaison and Benchers. As with all programming that we either purchase or develop in-house, we consider the resource implications and whether the work is in accordance with our [strategic goals](#).

Having selected The Path (National), we began work to develop Alberta-specific content to make our own version, which we refer to as The Path (Alberta).

The Indigenous Initiatives Liaison, along with input from the Indigenous Advisory Committee, is working with the developers of the program to create the Alberta-specific content, with the intention of offering an educational tool specifically for Alberta lawyers.

The Path (Alberta) is not meant to be in depth and cover all the issues or perspectives on the topic, but it will provide a baseline understanding for all Alberta lawyers.

**3. As an active lawyer, how long do I have to complete The Path (Alberta)?**

Active lawyers will have 18 months to complete The Path (Alberta) from the date the program is launched.

The 18-month timeline will apply to all lawyers who become active or change to active status following the launch of The Path (Alberta), effective from the date they become active.

For instance, students-at-law called to the Bar following the launch of The Path (Alberta) will have 18 months after the effective date of their active lawyer status to complete the program.

**4. Are lawyers expected to pay for this education?**

There is no additional cost to active or inactive Alberta lawyers to take The Path (Alberta) through the Law Society.

**5. As an inactive lawyer, can I complete The Path (Alberta), and will the Law Society cover the cost?**

Inactive lawyers can take The Path (Alberta) through the Law Society at no additional cost. Those who complete the program while inactive will meet the requirements of the education upon reinstating to active status.

**6. As a suspended lawyer, can I complete The Path (Alberta), and will the Law Society cover the cost?**

Suspended lawyers can take The Path (Alberta), but the costs will not be covered by the Law Society. Those who complete the program while suspended will meet the requirements of the education upon reinstating to active status.

**7. How will The Path (Alberta) be delivered and how long will it take to complete?**

The Path (Alberta) is a six-hour series of online modules with videos and quizzes. Lawyers can complete the series in segments, allowing for flexibility of learning pace, but must complete the program within the 18-month time frame allotted.

**8. Is The Path (Alberta) accessible to those using access technology?**

The Path (Alberta) runs on a Learning Management System called Moodle, that follows universal instructional design and universal accessibility standards. More information can be found [here](#). NVision has also reviewed their program accessibility with those using assistive devices.

The written content and quiz questions are accessible with text to voice and screen readers. Much of the content is via video with closed captioning, for which there is also a downloadable narration file. There are also downloadable resources such as a term lexicon. These resources are usually provided as PDF files but can also be provided as MS Word files.

**9. I have already taken Indigenous Cultural Competency education through another provider. Do I still have to take The Path (Alberta) delivered by the Law Society?**

Some exemptions are available to lawyers who choose to certify they have equivalent Indigenous cultural competency education. However, all Alberta lawyers are still welcome to complete The Path (Alberta) as it contains new Alberta-specific content not in The Path (National). While this program is not meant to be in depth and cover all the issues or perspectives on the topic, it is the common starting point for all lawyers to gain a basic understanding of Indigenous history and issues in Canada and Alberta. We believe that

lawyers have an ongoing obligation to educate themselves on the issues that are relevant to the communities where they live and practise law.

#### **10. What are the exemptions if I choose to certify I have equivalent Indigenous Cultural Competency education?**

Alberta lawyers who have completed The Path (National) through the Canadian Bar Association (CBA) or another organization, or who have completed the Indigenous Canada program at the University of Alberta, will be considered to meet the requirements of the education and are exempt from taking The Path (Alberta) through the Law Society.

We also understand that lawyers could receive Indigenous education in many other ways, and this adds complexity to making exemptions. We have heard from lawyers about various education programs, both formal and informal. We know others have experiences with Aboriginal law and Indigenous law or legal traditions. And we also know that cultural experiences and Indigenous status or ancestry may be raised.

While the Law Society will not pre-emptively evaluate or accredit individual programs or experiences, lawyers will be required to certify that they have met the criteria outlined below.

Alberta lawyers who certify they have previous education or knowledge equivalent to The Path (National or Alberta) will also be exempt. The previous education or knowledge equivalent must include training in intercultural competency, conflict resolution, human rights and anti-racism. As well, it should be sufficient to address Call to Action 27 which includes:

- History and legacy of residential schools
- United Nations Declaration on the Rights of Indigenous Peoples
- Treaties and Aboriginal rights
- Indigenous law (Indigenous legal traditions)
- Aboriginal-Crown relations

#### **11. How will the Law Society hold lawyers accountable for certifying their exemptions?**

Individual lawyers will be relied on to make their own assessment of their prior education and experiences in Indigenous cultural competency. As well, the Law Society will establish an audit program to review and assess equivalent certifications.

#### **12. I have already taken The Path (National) through another organization. Will I be reimbursed for this expense?**

Alberta lawyers who have completed The Path (National) through other organizations or learning institutions will not be reimbursed for the cost of the program.

#### **13. What happens if lawyers do not complete the Indigenous Cultural Competency education?**

As per the Rules of the Law Society of Alberta, lawyers who do not complete the Indigenous education within the 18 months will be administratively suspended.

## Approval of Mandatory Education

### 14. Why is the Law Society of Alberta mandating Indigenous Cultural Competency education for all active Alberta Lawyers?

The decision to mandate education is integral to our commitment and obligation to respond to the 2015 Truth and Reconciliation Commission (TRC) [Calls to Action](#). This decision is also consistent with our [2020 – 2024 Strategic Plan](#), where we have made Equity, Diversity and Inclusion, along with Lawyer Competence, two of the four pillars.

While in many contexts we do believe lawyers should exercise their own judgement when choosing education for their own professional development, there are some competencies where it is appropriate that the Law Society mandate education. Indigenous cultural competency is one of those unique areas where mandatory education is important.

Other reasons for the decision can be found in our [October Board Recap video](#).

### 15. The Law Society suspended the mandatory Continuing Professional Development (CPD) requirement for Alberta lawyers for 2020 – 2021, but is now implementing a mandatory education course in 2021? Why now?

In February, we [suspended the mandatory Continuing Professional Development](#) filing requirement for the profession for the years 2020 and 2021. At that same time, we also announced that we would be establishing an Indigenous Cultural Competency program for all Alberta lawyers.

We always anticipated launching the Indigenous Cultural Competency education while we developed the new competence program. The Lawyer Competence Committee and the Indigenous Advisory Committee worked with Law Society staff to create a competence program for 2021 that focuses on Indigenous issues that meaningfully address our obligation arising from the TRC Calls to Action.

Providing Alberta lawyers with shared Indigenous Cultural Competency education is part of our shared social responsibility to educate ourselves on issues relevant to the communities where we live and practise law.

### 16. We are amid a pandemic where lawyers may be struggling financially. Is this really a priority given the current economic uncertainty?

We recognize that the cost of professional development and time constraints can be a barrier for some, so there will be no additional cost to active or inactive Alberta lawyers to take The Path (Alberta). Lawyers will have at least 18 months to complete the six hours of education. Additionally, lawyers can spread out the six hours as the education can be done in segments, allowing lawyers to set their own learning pace.

### **17. I do not have Indigenous clients, why is this important to me?**

Whether a lawyer's practice involves Indigenous clients or not, lawyers have an ongoing obligation to educate themselves on the issues that are relevant to the communities where they live and practise law.

We know Indigenous people are over-represented in the justice system. Alberta has one of the [largest Indigenous populations](#) in the country. The Path (Alberta) will allow Alberta lawyers to gain a basic understanding of Indigenous history and issues in Canada, and Alberta.

### **18. Is all future continuing professional development going to be mandated in the same way?**

Work is currently underway to rebuild a CPD model that aspires to empower and equip lawyers to provide the best legal services they can to Albertans. Our goal with rebuilding the CPD program is to establish a program that considers experience, existing education programs and stage of career. We also know that many firms and organizations have developed CPD programming for lawyers.

While in many contexts we believe lawyers should exercise their own judgement when choosing education for their own professional development, there are some competencies where it is appropriate that the Law Society mandate education.

While Rule 67.4 was amended to mandate the Indigenous Cultural Competency education, any future education under this rule would be fully vetted by the Benchers. The Benchers can apply this rule if they deem an area of competency as fundamental to the core of lawyer competency requirements.

### **19. Will the Law Society be mandating other cultural competency education for lawyers?**

At this time, no decisions have been made on any other elements of the new CPD program or any other mandatory education. We have [equity, diversity and inclusion initiatives](#) underway and we will continue to prioritize this work going forward.

### **20. When will more details be shared about other changes to future professional development requirements?**

The Lawyer Licensing and Competence in Alberta report was approved by the Benchers. We have spent time prioritizing the recommendations in the report and considered potential timelines for implementation. This was a necessary step as we plan to resource this work and develop a comprehensive engagement plan to gather ongoing feedback and input from the profession.

More information about this report is available in this separate [FAQ document](#).