



Strengthening the Pillars

Report of the TMU External Review

The Honourable J. Michael MacDonald

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This report was written by
The Honourable J. Michael MacDonald, External Reviewer
Katharine Mack
Jennifer Taylor

Graphic design by University Relations at Toronto Metropolitan University



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LAND ACKNOWLEDGMENTS

Toronto Metropolitan University Land Acknowledgment:

“Toronto is in the ‘Dish With One Spoon Territory’. The Dish With One Spoon is a treaty between the Anishinaabe, Mississaugas and Haudenosaunee that bound them to share the territory and protect the land. Subsequent Indigenous Nations and peoples, Europeans and all newcomers have been invited into this treaty in the spirit of peace, friendship and respect.”¹

Mi’kmaq Land Acknowledgment, with thanks to the Nova Scotia Barristers’ Society:

This report was prepared “in Mi’kma’ki, the ancestral and unceded territory of the Mi’kmaq People. This territory is covered by the ‘Treaties of Peace and Friendship’ which Mi’kmaq and Wolastoqiyik (Maliseet) People first signed with the British Crown in 1725. The treaties did not deal with surrender of lands and resources but in fact recognized Mi’kmaq and Wolastoqiyik (Maliseet) title and established the rules for what was to be an ongoing relationship between nations.”²

A NOTE ABOUT SENSITIVE CONTENT

This report contains sensitive content. Readers are encouraged to take care in engaging with this report and, if helpful, to access support.

For TMU students:

- [Good2Talk](#) is a 24/7 phone and text line that is capable of providing real-time support.
- [The Gerstein Centre 24/7 Distress Line](#) is a free, confidential support line for anyone experiencing an emotional crisis and needing immediate assistance: call **416-929-5200**.
- [The Centre for Student Development and Counselling](#) offers referrals and resources to students, including individual and group counselling: email csdc@torontomu.ca or call **416-979-5195**.
- [Student Care](#) at TMU supports students dealing with academic, financial, and physical and mental health challenges: email studentcare@torontomu.ca.

¹ Toronto Metropolitan University, Indigenous Education Council, “Toronto Metropolitan University Land Acknowledgment”: <https://www.torontomu.ca/indigenous-education-council/land-acknowledgment/>.

² Nova Scotia Barristers’ Society, “Mi’kmaq Land Acknowledgement”: <https://nsbs.org/>.



Mental health resources are also available from the province of Ontario: “[Find mental health support](#)” and the Government of Canada: “[Mental health support](#).”



Part 1.0

EXECUTIVE SUMMARY



1.0 EXECUTIVE SUMMARY

This part of the report (1) provides a concise overview of the External Review; (2) outlines the structure of the report; (3) explains the “Strengthening the Pillars” title; and (4) provides some caveats for readers.

The report uses “LASL”, “Lincoln”, “Lincoln Alexander”, and “the law school” to refer to the Lincoln Alexander School of Law.

1.1 Overview of the External Review

This is the report of the External Review that Toronto Metropolitan University (TMU) commissioned in November 2023 to consider whether a letter that was written, signed, and circulated by students at TMU’s Lincoln Alexander School of Law breached TMU’s *Policy 61: Student Code of Non-Academic Conduct (Code)*, and if so, to determine the appropriate sanctions.

On October 20, 2023, less than two weeks after Hamas’s October 7 attacks in Israel, a student at LASL emailed Dean Donna Young, copying Associate Dean Graham Hudson, Assistant Dean Anita Balakrishna, and seven fellow students. The email advised that a student organization, the Abolitionist Organizing Collective (AOC), was releasing an “open letter” entitled “*Lincoln Alexander School of Law’s unequivocal solidarity with Palestine and list of demands for the administration.*” The letter was addressed to Deans Young, Hudson, and Balakrishna.

Deans Young and Balakrishna had earlier, on October 11, emailed the law students to express concern about the “*escalating violence, human suffering, and loss of life in Israel and Palestine.*” The email recognized that the situation was personally impacting LASL students and their loved ones; advocated for peace; promoted empathetic discourse; and provided resources to support student wellbeing. The email also encouraged students to reach out directly to Assistant Dean Balakrishna “*to discuss this message or any other issues of concern in the law school community.*”

The email ended: “*Please take care of one another during this difficult time and remember that we are here for you.*”

The student letter of October 20 was, in part, a response to the administration’s October 11 email, which was felt to have been insufficiently supportive of Palestine.

For example, the student letter, in bold terms, condemned “*LASL’s ‘neutral’ position.*” The letter referred to Hamas’s “*recent war crimes*” but asserted that Israel had also been committing war crimes. The letter characterized “*so-called Israel*” as an “*apartheid state*” and “*a product of settler colonialism*”, and claimed that Israel was “*responsible for all loss of life in Palestine.*” It called on the administration to issue a new statement demanding that the Canadian government take certain actions, including demanding an immediate

ceasefire. The authors also asked the administration to recognize “*Palestinian resistance as fundamentally just and as a means of survival for Palestinians.*”

The AOC circulated its open letter within the LASL community. The letter obtained 74 signatures: 72 signatures from LASL students, 36 of whom signed anonymously or by initial; one signature from the AOC; and one signature from someone identified as “*student, alumni.*” Many of the students who signed the letter had not read it carefully, but felt compelled to express solidarity with Palestinians and to support the letter’s call for a ceasefire.

Right away, the letter caused deep hurt and real pain for Jewish students at LASL. When the letter was released, they and their communities were still trying to come to terms with their grief, fear, and trauma following October 7.

The letter became public by October 22, sparking widespread attention on social media and in traditional media — and leading to an intense and widespread backlash against the students who participated. The letter was interpreted, by many, as endorsing the October 7 attacks, and minimizing the pain of the Jewish community.

The AOC later issued an apology for misleading signatories into thinking the letter would remain private, and for not properly alerting students to the potential consequences of signing it. However, this apology statement does not appear to have been widely circulated amongst LASL students. Nor did it retract any of the letter’s contents.

On October 23, 2023, Lincoln Alexander administration posted a statement in response to the letter which said, in part: “*The Lincoln Alexander School of Law did not issue, endorse or condone this letter. We unequivocally condemn the sentiments of Antisemitism and intolerance expressed in this message.*”

This statement did not quell the controversy, and TMU announced that an independent external review would be looking into recent events, including the letter.

On November 6, 2023, TMU appointed the Honourable J. Michael MacDonald as an External Reviewer with a defined mandate to determine whether any of the students who participated in the letter contravened Section 6 of the Code.³ The appointment letter was framed as a complaint by the University against the participant students, with Mr. MacDonald being designated as the decision maker.

³ Toronto Metropolitan University, Senate, *Policy 61: Student Code of Non-academic Conduct* (Approved May 4, 2021): <https://www.torontomu.ca/senate/policies/student-code-of-non-academic-conduct-policy-61/>.

Mr. MacDonald is the retired Chief Justice of Nova Scotia. From 2020 until 2023, he chaired the Mass Casualty Commission, a joint public inquiry that examined the April 18-19, 2020 mass casualty event in Nova Scotia. Mr. MacDonald is currently Counsel to Stewart McKelvey, an Atlantic Canadian law firm.

Stewart McKelvey lawyers Katharine Mack and Jennifer Taylor joined Mr. MacDonald to make up the “External Review team”, although all individual decision-making was conducted by Mr. MacDonald as the sole External Reviewer.

The team applied restorative principles to the greatest extent possible while working within the complaint-oriented infrastructure of the Code.

The process, which had two main phases, was designed to encourage people to participate, while supporting them in efforts to establish what happened and why, and to help chart a path forward, based on individual and shared responsibility. This is consistent with Section 2 of the Code, which frames the Code as being educational and supportive, while ensuring accountability and fairness.

The first of our two main phases involved meetings with students who participated in the letter. Our External Review team met with 32 of the 38 students who participated in the letter by name; one student who was copied on the email to the administration; and one student who signed the letter anonymously – 34 participant students total. We accepted written submissions from another named signatory. Only three students who participated by name declined to engage with the External Review.

Through these meetings, the External Review team learned about the participants’ lived experiences, their reasons for signing the letter, the impact of the backlash they have faced since the letter became public, and their recommendations for moving forward. This context was critical for and essential to the decision-making process, although the process certainly would have been improved if more students who signed anonymously had come forward to meet with us.

The second phase involved us engaging with the broader community. We began by offering an open invitation to any LASL student who wanted to meet with us. Thirteen students who did not participate in the letter accepted our offer to have their voices heard, and we received written submissions from several others. We also met with multiple internal stakeholders — including members of the Lincoln Alexander faculty, administration, and staff — along with external organizations. These meetings focused on the broader context at play and involved topics like academic freedom, anti-Palestinian racism, antisemitism, and Islamophobia.⁴

⁴ Many students and stakeholders used the term “Islamophobia” during our conversations. We acknowledge that TMU’s webpage on anti-Muslim racism says that the “term ‘Islamophobia’ is often used to describe anti-Muslim racism, but can be considered

All of our meetings were humbling, educational, personal, and often emotional.

Mr. MacDonald has now issued a confidential and individualized written decision to each student who participated by name. The letters to named students contain deeply personal information that was shared in confidence. Therefore, only the high-level results of these decisions have been shared with TMU administration.⁵

What can be made public is that, despite the unnecessary harm generated by this letter, none of the students who participated in the letter were found to have breached the Code.

Instead, after careful consideration, the External Reviewer concluded that, while the letter was understandably troubling and offensive to many, the students' participation in the letter, when placed in its appropriate context, was nonetheless a valid exercise of student expression and therefore protected under the University's Statement on Freedom of Speech.⁶ The principles of freedom of expression, including those set out in the Statement on Freedom of Speech, give wide latitude for students to apply their experience and learning, and to experiment with written advocacy. The standard is not perfection. Students are entitled to make mistakes, and even cause harm, without necessarily facing sanctions.

The conclusion that the students did not breach the Code, such that sanctions are not warranted, is far from an endorsement of the letter. A later section of the report constructively critiques the letter as a piece of written advocacy in an effort to explain why, as drafted, the letter was unlikely to have the intended effect of convincing LASL administration to take certain actions in solidarity with Palestinians. The objective of highlighting the plight of Palestinians in Gaza was laudable, but the tone and demands did not advance the objective. With the benefit of hindsight, many of the students regretted the harsh words of the letter, even as they remained committed to the Palestinian cause.

problematic and offensive due to its connotations of a psychological disorder": Toronto Metropolitan University, Office of the Vice-President, Equity and Community Inclusion, "Anti-Muslim Racism":

<https://www.torontomu.ca/equity/resources/discourse-docs/anti-muslim-racism/>.

⁵ Section 3.6 of the Procedures to the Code operates on a "necessity" basis – i.e. decision letters must *"be provided to appropriate staff and offices at the University where necessary for the purpose of coordination, implementation, or otherwise in accordance with the Freedom of Information and Protection of Privacy Act and the University's policies and procedures pertaining to privacy."*

⁶ Toronto Metropolitan University, Ryerson University Senate, Statement on Freedom of Speech (May 4, 2010): https://www.torontomu.ca/content/dam/senate/documents/Statement_on_Freedom_of_Speech_May_04_2010.pdf.



The students were not alone in perpetuating harm. In an October 23 statement, the LASL administration publicly condemned the letter without first giving the participating students a meaningful opportunity to explain themselves. Despite the administration's best intentions in a time of crisis, this too caused harm to the student community. Many students told us that the administration "*threw them under the bus*" at a moment when they needed tangible support and protection.

The reactions of many external actors, including prominent lawyers and interest groups — some of them publicly calling for the students to be expelled — caused further, and significant, harm to the students.

These responses put the law school into crisis mode. This was only LASL's fourth year of existence, and administrators understandably saw the negative public reaction to the letter as a credible threat to the legal community's vital support for the school. Many students who participated in the letter now understand that the letter had drastic consequences for the administration.

It has now been about seven months since the letter — a timeline that was necessary for the External Review team to complete its comprehensive process. The fallout from the letter, and the External Review process, have all taken a toll on the LASL community and negatively impacted the school year. As well, many students continue to be personally impacted by the events of October 7 and the ongoing war in Gaza.

We sincerely hope that the conclusion of the External Review will offer closure, and that the recommendations we have suggested will rekindle a more positive atmosphere when school returns in September.

We also hope that this report will encourage meaningful reflection. In some ways, the circumstances surrounding the letter actually demonstrate what makes Lincoln Alexander special: it is a place where students are encouraged to push boundaries, advocate for social justice causes, and "do law differently." It is not always going to be smooth or easy to translate these ideals into reality, or to navigate the interpersonal conflicts that will inevitably arise. Nevertheless, we believe the LASL community has the necessary resilience to work through these challenges.

One of TMU's recent scholarship announcements helps prove this point: on April 17, 2024, LASL announced the "Belzberg and Soliman Families Scholarships" for first-year law students. These scholarships — co-funded by a Jewish family and a Muslim family, with an anonymous donor matching their contributions — are all about building bridges. This is inspiring news that, we believe, validates LASL's current strengths and demonstrates the law school's future potential.



1.2 Structure of Report

The primary audience for this public-facing report is the Lincoln Alexander School of Law, but it is also drafted with an eye to the wider TMU community, the legal community, and any other audiences — including other universities — that may find it helpful.

We begin by situating TMU and LASL, before undertaking a brief, but necessary, examination of what is happening in Gaza and Israel.

Next, we will review the contextual timeline of the letter, and describe the External Review process.

The report then sets out a “freedom of expression framework”: the policies, legal principles, and contextual concepts that have informed our approach to freedom of expression.

Against this backdrop, the report will address the objections that the University’s complaint did not contain sufficient particulars to enable the respondent students to properly defend themselves.

The report then discusses the contextual themes and findings about the letter, drawn from our meetings with respondent students. Quotes from these students are included without attribution, and identifying information has been removed to the greatest extent possible. Stakeholder impacts are considered next.

Part 10 of the report summarizes the External Reviewer’s findings under the Code.

After that — and separate from the External Reviewer’s findings under the Code — we highlight our concerns about the letter in the hopes of strengthening the students’ advocacy skills and preparing them for their future endeavours as lawyers, advocates, and activists.

The final substantive portion of the report contains our recommendations for the LASL students; LASL administration; and TMU administration. This section also offers advice for the broader legal community.

1.3 Why “Strengthening the Pillars”

“Strengthening the Pillars” is a common metaphor with particular resonance for LASL, and it became an obvious choice for the title of this report.

LASL is founded on four foundational pillars, as we will discuss: equity, diversity, and inclusion; access to justice, which includes “social justice principles”; innovation and entrepreneurship; and academic excellence.⁷

These pillars have figured significantly in the External Review. They were cited in the student letter at issue, when the drafters asked LASL to “*uphold its grounding pillars committed to equity, diversity and inclusion, by providing a public response to this letter.*” And throughout our meetings, we heard how seriously LASL students take the pillars, and want them to be imbued with practical meaning.

We also appreciate the idea of building on, and strengthening, a solid foundation. LASL is still a brand-new law school, but it already has the stable footing required to move forward – from its intelligent and diverse student body and its engaged and innovative faculty, to its attentive and thoughtful leadership.

LASL community members did not always act flawlessly during the time period in question. But in our view, they all deserve grace and the ability to move forward, as LASL continues to establish itself and strengthen its foundational pillars.

1.4 Caveats

A few caveats for readers to keep in mind:

- This report is designed to be sensitive and contextual. It is not meant for quick reactions on social media or elsewhere. Readers are encouraged to review the report in full before passing judgment or publicly commenting.
- The report is not about naming, blaming, and shaming. None of the respondent students or stakeholder students are named here. We have also respected the wishes of certain stakeholders from within and outside LASL who asked to remain anonymous.
- The External Review was mandated to focus on the letter, but we also heard about other incidents at LASL, classroom discussions, and student social media posts that caused controversy. It was not the External Reviewer’s task to investigate those incidents or adjudicate whether any of those incidents contravened the Code. Likewise, this report is not about campus protests writ large – although in

⁷ Toronto Metropolitan University, Lincoln Alexander School of Law, “Our Pillars”: <https://www.torontomu.ca/law/about/our-pillars/>.



some ways, the LASL letter is a microcosm of what has been happening at other North American universities and colleges since October.

- The report makes general references to “students”; “stakeholders”; and “the administration” / “administrators.” These generalizations are for ease of reference, and sometimes to protect confidentiality. They are not intended to suggest that all students, stakeholders, or members of TMU or LASL administration share a particular perspective.
- Citing a source does not necessarily endorse every single aspect of that source. Some sources are cited because a particular point or argument is persuasive.
- We had several poignant meetings with Jewish students, faculty and staff, and members of community organizations. We are enormously grateful for this, and we have worked to ensure that their important voices are reflected in this report. However, students and stakeholders should know that the respondent students’ stories take up a large part of this report because of their very status as respondents to a complaint by the University. The respondent students were in academic jeopardy during this process. And, as respondents, they had the right to be heard. To the extent that the report, from a word-count perspective, may seem imbalanced to some, this is why.
- This External Review came about because of how a letter was worded. Words are our tools, too, as imperfect as they may be. One of the themes of our approach has been to encourage difficult and uncomfortable, but respectful, conversations. In that vein, we welcome good-faith critique of this report.



Part 2.0

SITUATING TMU AND LASL

2.0 SITUATING TMU AND LASL

2.1 About TMU

Toronto Metropolitan University is located in “the heart of downtown Toronto”⁸ and prides itself on being “urban, culturally diverse and inclusive.”⁹ TMU has over 46,000 students.¹⁰ About half of TMU students report that they are “members of a visible minority.”¹¹

On April 26, 2022,¹² Ryerson University was renamed “Toronto Metropolitan University.” The renaming process stemmed from the recommendations of the Standing Strong (Mash Koh Wee Kah Pooh Win) Task Force, which examined the life and legacy of the University’s former namesake Egerton Ryerson.¹³

⁸ Toronto Metropolitan University, About, “History”: <https://www.torontomu.ca/about/history/>.

⁹ Toronto Metropolitan University, *Academic Plan 2020-2025*, “Setting the Stage” (page 2): <https://www.torontomu.ca/content/dam/about/strategic-vision/tmu-academic-plan.pdf>.

See also Toronto Metropolitan University, “Ryerson University changing its name to Toronto Metropolitan University” (April 26, 2022):

<https://www.torontomu.ca/media/releases/2022/04/ryerson-university-changing-its-name-to-toronto-metropolitan-uni/>.

¹⁰ Toronto Metropolitan University, “Ryerson University changing its name to Toronto Metropolitan University” (April 26, 2022):

<https://www.torontomu.ca/media/releases/2022/04/ryerson-university-changing-its-name-to-toronto-metropolitan-uni/>. See also Toronto Metropolitan University, University Planning Office, “Enrolment and Faculty Counts” (last updated August 10, 2023): <https://www.torontomu.ca/university-planning/data-statistics/key-statistics/>.

¹¹ Toronto Metropolitan University, University Planning Office, *Frequently Asked Questions* under “What is the ethnic background of Toronto Metropolitan University students?”:

<https://www.torontomu.ca/university-planning/about/faq/#!accordion-1561387043762-what-is-the-ethnic-background-of-toronto-metropolitan-university-students->

¹² Toronto Metropolitan University, “Ryerson University changing its name to Toronto Metropolitan University” (April 26, 2022):

<https://www.torontomu.ca/media/releases/2022/04/ryerson-university-changing-its-name-to-toronto-metropolitan-uni/>.

The University’s governing statute has also been renamed as the *Toronto Metropolitan University Act, 1977*:

[https://www.torontomu.ca/content/dam/governors/documents/governance/Toronto Metropolitan University Act \(updated 2022\).pdf](https://www.torontomu.ca/content/dam/governors/documents/governance/Toronto_Metropolitan_University_Act_(updated_2022).pdf).

¹³ Mash Koh Wee Kah Pooh Win / Standing Strong Task Force, *Standing Strong Task Force Report & Recommendations* (August 18, 2021):

https://www.torontomu.ca/content/dam/next-chapter/Report/SSTF-report-and-recommendations-Aug_24_FINAL.pdf. See page 57 for a helpful history of TMU.

TMU has seven core values:¹⁴

- Excellence
- Equity, diversity, and inclusion
- Mutual respect and shared success
- Sustainability
- Boldness
- Wellbeing
- Access to education

Academic freedom is the “cornerstone” of these core values:¹⁵

Underpinning all seven values is academic freedom. At the heart of what it means to be a university, academic freedom provides us with the liberty to think critically, explore and exchange new ideas, and evaluate and challenge norms and preconceptions. It is a cornerstone of knowledge creation. We unequivocally embrace freedom of thought and expression in support of teaching, learning and activity SRC [Scholarly, Research, Creative]. Building a community where we can speak, write, critique and otherwise articulate ideas and perspectives provides a foundation for all that we do at TMU.

Woven throughout these values is a commitment to examine and challenge the status quo and identify where and how we can do things differently. Going forward, we remain committed to being bold in our thinking, actions and decisions as an academic institution and in how we live our values every day.

¹⁴ Toronto Metropolitan University, *Academic Plan 2020-2025*, “Our Values” (pages 11-13): <https://www.torontomu.ca/content/dam/about/strategic-vision/tmu-academic-plan.pdf>.

¹⁵ Toronto Metropolitan University, *Academic Plan 2020-2025*, “Our Values” (page 11): <https://www.torontomu.ca/content/dam/about/strategic-vision/tmu-academic-plan.pdf>.



The “special mission” of TMU is “the advancement of applied knowledge and research to address societal need, and the provision of programs of study that provide a balance between theory and application and that prepare students for careers in professional and quasi-professional fields.”¹⁶

2.2 About LASL

The Lincoln Alexander School of Law opened in 2020 and graduated its first class in 2023.

LASL presents itself as a “different kind of law school”¹⁷ that “sets a new precedent.”¹⁸

Of LASL’s approximately 450 students, 71% identify as racialized, and 75% identify as female.¹⁹

LASL is built on “four foundational pillars” (which became a significant theme in the External Review): equity, diversity, and inclusion; access to justice (including social justice); innovation and entrepreneurship; and academic excellence:²⁰

Equity, Diversity and Inclusion

In keeping with the university’s commitment to equity, diversity and inclusion, the Lincoln Alexander School of Law has prioritized these themes throughout its curriculum, clinical and experiential learning opportunities, and professional placements. Students will gain an understanding of the needs of legal clients across Canada and be encouraged to think across disciplines, as well as local and international jurisdictional boundaries. Our

¹⁶ Toronto Metropolitan University, Graduate Academic Calendar, “Mission and Aims of Toronto Metropolitan University”:
<https://www.torontomu.ca/graduate/calendar/about/mission-aims/>.

¹⁷ Toronto Metropolitan University, Lincoln Alexander School of Law, *A different kind of law school* (September 2022): <https://www.torontomu.ca/content/dam/law/documents/law-brochure-sep-2022.pdf>.

¹⁸ Toronto Metropolitan University, *Academic Plan 2020-2025*, “Setting the Stage” (page 2): <https://www.torontomu.ca/content/dam/about/strategic-vision/tmu-academic-plan.pdf>;
Toronto Metropolitan University, Lincoln Alexander School of Law, *A different kind of law school* (September 2022): <https://www.torontomu.ca/content/dam/law/documents/law-brochure-sep-2022.pdf>.

¹⁹ We also understand that, for the 2023-2024 academic year, 100% of LASL’s senior leadership team members are from equity-deserving groups, as are about 89% of staff members and 89% of full-time faculty members. Half of LASL’s full-time faculty members identify as racialized.

²⁰ Toronto Metropolitan University, Lincoln Alexander School of Law, “Our Pillars”:
<https://www.torontomu.ca/law/about/our-pillars/>.

aim is to shape lawyers who will serve a broad range of communities, including those who have often been underserved by the legal community.

Access to Justice

Social justice principles aren't just talking points for our law school, they're an essential element of our vision for legal education. We are committed to providing access to justice as a fundamental human right. We must ensure a broader understanding of the obstacles to justice that face many Canadians. In addition to courses and modules that focus on Indigenous Law, Social Innovation and the Law, and Law and Injustice, the strategic placement of students in community-based legal clinics and other settings will help instill the importance of access to justice in our graduates.

Innovation and Entrepreneurship

Our approach to legal education reflects a longstanding commitment to challenge convention in search of new possibilities. As the global economy continues to be fuelled by advances in technology, the lawyers of the future will need to be nimble and innovative. We understand the importance of stimulating innovation and entrepreneurship in the field of law and are equipping our students with the ability to critically examine the impacts of technology on society and to explore how it can be used to strengthen the legal profession and expand access to justice.

Academic Excellence

Modern clients face challenges that require creative legal solutions. As part of our Integrated Practice Curriculum (IPC), Lincoln Alexander Law students will be equipped with critical skills ranging from the business of lawyering and emotional and cultural competencies to coding and contemporary technological practices. Our curriculum, which employs pedagogical innovation to blend theory and practice, is designed to give tomorrow's lawyers the knowledge and know-how essential to navigate the changing demands of the legal marketplace and Canadian society at large.

Lincoln Alexander's Integrated Practice Curriculum (IPC) means that law students in the JD program do not have to article in order to be eligible for licensing with the Law Society of Ontario.²¹ The IPC includes a co-teaching model, where faculty and practitioners oversee applied learning in the classroom; experiential learning and mentorship opportunities; and 15-week professional placements in legal workplaces.

²¹ Toronto Metropolitan University, Lincoln Alexander School of Law, "Programs": <https://www.torontomu.ca/law/program/>.

As another example of practical learning, LASL launched a new student legal clinic in Fall 2023, which “*aims to build an anti-oppressive and trauma-informed legal practice and legal education experience...within a healing justice lens.*”²²

The Honourable Lincoln M. Alexander, CC, OOnt, QC is the law school’s namesake.²³ Alexander, who died in 2012, was “*a leader in the fight for racial equality, a champion of education and youth, and a trailblazer in Canadian history.*” He became a lawyer after serving in the Royal Canadian Air Force during the Second World War. In 1965, Alexander was elected as a Member of Parliament, becoming “the first Black Canadian to service in Canada’s House of Commons” and, in 1979, “the first Black Canadian to hold a Cabinet position.”

Alexander became the Lieutenant Governor of Ontario in 1985, making him “the first Black Canadian to be appointed to a vice-regal position in Canada.” He later served five terms as Chancellor of the University of Guelph. Alexander is remembered for his character; his advocacy for equity, diversity, and inclusion; and his commitment to public service and human rights.²⁴

In the next couple of years, LASL will move into a building on Victoria Street that will become the law school’s new and permanent home.²⁵

2.3 A note on funding

TMU has a centralized financial model which means that faculties, including the law school, receive annual budget envelopes (allocations) from the University. These allocations would include amounts from provincial government grants, but the law school does not receive any direct government funding because of TMU’s centralized model. The centralized model includes coverage for salaries and benefits. Further, academic units do not pay directly for central services and student supports (such as those offered by Student Services) or for administrative services from units like Financial Services and Human Resources. About 85% of the law school’s operating budget is spent on salaries. The law school’s fundraising efforts go towards student awards and scholarships.

²² Toronto Metropolitan University, Lincoln Alexander School of Law, “Legal Clinic”: <https://www.torontomu.ca/law/program/legal-clinic/>.

²³ Toronto Metropolitan University, Lincoln Alexander School of Law, “Our Namesake”: <https://www.torontomu.ca/law/about/our-namesake/>.

²⁴ Toronto Metropolitan University, Lincoln Alexander School of Law, “Our Namesake”: <https://www.torontomu.ca/law/about/our-namesake/>.

²⁵ Toronto Metropolitan University, TorontoMet Today, “A new home for the Lincoln Alexander School of Law” (February 15, 2024): <https://www.torontomu.ca/news-events/news/2024/02/new-home-lincoln-alexander-school-law/>.

Part 3.0

MIDDLE EAST CONTEXT

3.0 MIDDLE EAST CONTEXT

Care should be taken before reviewing this section. Please refer to the earlier note about sensitive content and the resources listed there.

This report would not be complete without a solemn acknowledgment of the Middle East context that gave rise to the student letter.

By including this section, we do not profess to have specialized knowledge of the issues, nor the ability to offer solutions to the conflict, which has a complex history. We are also aware that the impugned letter is the focus of our mandate.

Nevertheless, with heartfelt sadness, and appreciation of the underlying complexities, we acknowledge the devastating massacre that Hamas perpetrated on October 7, 2023 and the devastating war that Israel has executed since October 7. To borrow the words of the International Court of Justice, we are “acutely aware of the extent of the human tragedy that is unfolding in the region” and we are “deeply concerned about the continuing loss of life and human suffering.”²⁶

There is no consensus on how to refer to the current violence in the region. It is similarly difficult to cite sources that are universally agreed to be credible. This report will, out of necessity, use commonly understood terms like “war” and “conflict”, even though these words have been controversial in the context of the letter at issue. The report will also cite articles from North American mainstream media outlets, United Nations (UN) reports and statements, and decisions of the International Court of Justice. Hopefully the words used and the sources cited will not be a distraction from the facts as currently understood.²⁷

On October 7, 2023, Hamas militants led a multi-front attack on southern Israel. Hamas and its armed collaborators killed approximately 1,200 people in Israel: around 695 Israeli civilians, including at least 33 children; approximately 373 members of Israeli security

²⁶ International Court of Justice, Order of 26 January 2024, Document Number 192-20240126-ORD-01-00-EN in Case 192 – *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)* at para 13: <https://www.icj-cij.org/node/203447>.

²⁷ More up-to-date information may be found on the website of the United Nations Office for the Coordination of Humanitarian Affairs (OCHA): <https://www.ochaopt.org/>.

forces; and 71 foreigners.²⁸ Thousands more have been injured.²⁹ Hamas attacked the Nova music festival, kibbutzes, a military base, and multiple other locations.³⁰

October 7, 2023 has often been described as the deadliest day for Jews since the Holocaust.

Hamas abducted over 250 hostages, only about half of whom have since been released. As of May 18, 2024, Israel said that “100 hostages are still captive in Gaza, along with the bodies of around 30 more.”³¹ There have been large-scale protests in Israel seeking the return of the hostages.³²

In response to the October 7 attacks, Israel launched a “large-scale military operation in Gaza, by land, air and sea, which is causing massive civilian casualties, extensive destruction of civilian infrastructure and the displacement of the overwhelming majority of the population in Gaza.”³³

²⁸ AFP, “Israel social security data reveals true picture of Oct 7 deaths” (December 15, 2023): <https://www.france24.com/en/live-news/20231215-israel-social-security-data-reveals-true-picture-of-oct-7-deaths>; Nick Logan, “Why the UN changed its death tolls of Palestinian women and children killed in Gaza”, *CBC News* (May 13, 2024): <https://www.cbc.ca/news/world/gaza-women-children-death-toll-1.7203167>.

²⁹ International Court of Justice, Order of 26 January 2024, Document Number 192-20240126-ORD-01-00-EN in Case 192 – *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)* at para 13: <https://www.icj-cij.org/node/203447>.

The United Nations Office for the Coordination of Humanitarian Affairs says that approximately 5,432 Israelis and foreign nationals have been injured since October 7, 2023: OCHA, “Reported Impact Since 7 October 2023”: <https://www.ochaopt.org/>.

³⁰ Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, Mission Report, *Official visit of the Office of the SRSG-SVC to Israel and the occupied West Bank 29 January – 14 February 2024* (March 4, 2024).

³¹ Associated Press, “Israeli army finds bodies of 3 hostages in Gaza killed at Oct. 7 music festival” (May 18, 2024): <https://apnews.com/article/israel-hamas-war-gaza-hostages-shani-louk-a37e4fd656b46be36c4c659a9c2aac7d>.

³² Lars Dolder, “Thousands march in Tel Aviv to call for a hostage deal”, *New York Times* (May 19, 2024): <https://www.nytimes.com/2024/05/19/world/middleeast/thousands-march-in-tel-aviv-to-call-for-a-hostage-deal.html>.

³³ International Court of Justice, Order of 26 January 2024 at para 13, Document Number 192-20240126-ORD-01-00-EN in Case 192 – *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*: <https://www.icj-cij.org/node/203447>.

The death toll in Gaza has been staggering, and disproportionate in comparison to other recent major armed conflicts.³⁴

According to a recent CBC summary:³⁵

Health authorities in Gaza say Israel's offensive in the enclave has killed more than 34,000 Palestinians — the majority of them women and children — and has led to the imminent risk of famine, the destruction of key hospitals and, according to the United Nations, the displacement of 1.9 million people.

As of May 9, 2024, the UN Office for the Coordination of Humanitarian Affairs (OCHA) reported that 52 per cent of the victims were women or children: 20 per cent of those killed were women, and 32 per cent were children.³⁶

According to the UN, over 80 per cent of schools in Gaza have been “damaged or destroyed.”³⁷

At least 224 humanitarian aid workers have been killed,³⁸ as have at least 105 journalists and media workers.³⁹

³⁴ Merlyn Thomas, “Israel Gaza: What Gaza’s death toll says about the war”, *BBC Verify* (December 20, 2023): <https://www.bbc.com/news/world-middle-east-67764664>.

³⁵ Matthew Lapierre & Erika Morris, “Protesters at McGill pro-Palestinian encampment are staying put despite warning for them to leave”, *CBC News* (April 29, 2024): <https://www.cbc.ca/news/canada/montreal/encampment-mcgill-pro-palestinian-1.7187787>

³⁶ Nick Logan, “Why the UN changed its death tolls of Palestinian women and children killed in Gaza” *CBC News* (May 13, 2024): <https://www.cbc.ca/news/world/gaza-women-children-death-toll-1.7203167>. This article explains that the death toll in Gaza and Israel has fluctuated, and continues to be disputed while the war is ongoing.

³⁷ United Nations, Office of the High Commissioner for Human Rights, “UN experts deeply concerned over ‘scholasticide’ in Gaza” (April 18, 2024): <https://www.ohchr.org/en/press-releases/2024/04/un-experts-deeply-concerned-over-scholasticide-gaza>.

³⁸ United Nations, Security Council, “Press Statement on Humanitarian Workers and Threat of Famine in Gaza” (April 11, 2024): <https://press.un.org/en/2024/sc15658.doc.htm>.

³⁹ Committee to Protect Journalists, “Journalist casualties in the Israel-Gaza war” (May 18, 2024): <https://cpj.org/2024/05/journalist-casualties-in-the-israel-gaza-conflict/>.

In proceedings instituted by South Africa against the State of Israel,⁴⁰ the International Court of Justice has found that “at least some of the rights claimed by South Africa and for which it is seeking protection are plausible”, including “the right of the Palestinians in Gaza to be protected from acts of genocide and related prohibited acts identified in Article III” of the *Convention on the Prevention and Punishment of the Crime of Genocide*.⁴¹

On January 26, 2024, the ICJ ordered several provisional measures, including that Israel “take all measures within its power to prevent the commission of all acts within the scope of Article II” of the Genocide Convention,⁴² and “take immediate and effective measures to enable the provision of urgently needed basic services and humanitarian assistance to address the adverse conditions of life faced by Palestinians in the Gaza Strip.”⁴³

As noted, the war in Gaza has disproportionately impacted children and women.⁴⁴ The conditions in Gaza for pregnant, birthing, and lactating women are extremely dire.⁴⁵

Sexual violence has been another horrific aspect of the ongoing war.

⁴⁰ On the importance and limitations of South Africa’s case before the ICJ, see Chile Eboe-Osuji, “International Courts as the Last Hope for Humanity”, *Just Security* (January 24, 2024): <https://www.justsecurity.org/91448/international-courts-as-the-last-hope-for-humanity/>; Chile Eboe-Osuji, “South Africa’s ICJ Case Was Too Narrow”, *Foreign Policy* (February 2, 2024): <https://foreignpolicy.com/2024/02/02/south-africa-israel-icj-gaza-genocide-hamas/>.

⁴¹ International Court of Justice, Order of 26 January 2024, Document Number 192-20240126-ORD-01-00-EN in Case 192 – *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)* at para 54 (see also para 66): <https://www.icj-cij.org/node/203447>. Case documents available here: <https://www.icj-cij.org/case/192>.

⁴² International Court of Justice, Order of 26 January 2024, Document Number 192-20240126-ORD-01-00-EN in Case 192 – *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)* at para 78: <https://www.icj-cij.org/node/203447>.

⁴³ International Court of Justice, Order of 26 January 2024, Document Number 192-20240126-ORD-01-00-EN in Case 192 – *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)* at para 80: <https://www.icj-cij.org/node/203447>.

⁴⁴ United Nations, Office of the High Commissioner for Human Rights, “Onslaught of violence against women and children in Gaza unacceptable: UN experts” (May 6, 2024): <https://www.ohchr.org/en/press-releases/2024/05/onslaught-violence-against-women-and-children-gaza-unacceptable-un-experts>.

⁴⁵ United Nations, Office of the High Commissioner for Human Rights, “Onslaught of violence against women and children in Gaza unacceptable: UN experts” (May 6, 2024): <https://www.ohchr.org/en/press-releases/2024/05/onslaught-violence-against-women-and-children-gaza-unacceptable-un-experts>.

In February 2024, several UN experts expressed “alarm over credible allegations of egregious human rights violations to which Palestinian women and girls continue to be subjected in the Gaza Strip and the West Bank.”⁴⁶ These credible allegations related to arbitrary executions and detentions; “inhuman and degrading treatment” in detention; and sexual violence. The experts “called for an independent, impartial, prompt, thorough and effective investigation into the allegations and for Israel to cooperate with such investigations.”

In March 2024, the UN’s Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict issued a Mission Report regarding its investigation into the commission of sexual violence on October 7, and against hostages in the months since.⁴⁷ The mission team found “reasonable grounds to believe that conflict-related sexual violence occurred during the October 7 attacks in multiple locations across [the] Gaza periphery...”⁴⁸ The report continued: “With respect to hostages, the mission team found clear and convincing information that some have been subjected to various forms of conflict-related sexual violence... and it also has reasonable grounds to believe that such violence may be ongoing.”⁴⁹

⁴⁶ United Nations, Office of the High Commissioner for Human Rights, “Israel/oPt: UN experts appalled by reported human rights violations against Palestinian women and girls” (February 19, 2024): <https://www.ohchr.org/en/press-releases/2024/02/israelopt-un-experts-appalled-reported-human-rights-violations-against>.

⁴⁷ Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, Mission Report, *Official visit of the Office of the SRSG-SVC to Israel and the occupied West Bank 29 January – 14 February 2024* (March 4, 2024).

See also United Nations, Security Council, “Reasonable Grounds to Believe Conflict-Related Sexual Violence Occurred in Israel During 7 October Attacks, Senior UN Official Tells Security Council” (March 11, 2024): <https://press.un.org/en/2024/sc15621.doc.htm>.

⁴⁸ Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, Mission Report, *Official visit of the Office of the SRSG-SVC to Israel and the occupied West Bank 29 January – 14 February 2024* (March 4, 2024) at para 12.

⁴⁹ Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, Mission Report, *Official visit of the Office of the SRSG-SVC to Israel and the occupied West Bank 29 January – 14 February 2024* (March 4, 2024) at para 17.

See also Matt Gutman et al, “IDF’s conduct, ethics under scrutiny following soldiers’ social media posts” ABC News (April 17, 2024): <https://abcnews.go.com/International/idfs-conduct-ethics-scrutiny-soldiers-social-media-posts/story?id=109035616>.

On March 18, 2024, Canada’s House of Commons passed a non-binding motion entitled “Canada’s actions to promote peace in the Middle East” calling on the government to, among other measures, “demand an immediate ceasefire, the release of all hostages, and [that] Hamas must lay down its arms.”⁵⁰

As of mid-May 2024, ceasefire negotiations were ongoing.

⁵⁰ House of Commons, 44th Parliament, 1st Session – Vote No. 658, Sitting No. 290 (March 18, 2024): <https://www.ourcommons.ca/members/en/votes/44/1/658>.



Part 4.0

CONTEXTUAL TIMELINE OF THE STUDENT LETTER

4.0 CONTEXTUAL TIMELINE OF THE STUDENT LETTER

This part of the report reviews the events leading up to the student letter; the letter itself; LASL's statement of October 23, 2023; reactions to the letter from outside TMU; and further communications from the University.

4.1 Events leading up to the student letter

This section of the report attempts to place the October 20, 2023 student letter within its contextual timeline.

Like many academic institutions around the world, the Lincoln Alexander School of Law was impacted by the events of October 7.

On Sunday October 8, at least two student groups posted social media statements about the attacks. We are also aware that many students were sharing posts on their own social media accounts.

Classes were not in session during the week following the October 7 attacks. That Monday, October 9, was the Thanksgiving holiday. Then, TMU students had a study week from October 10-13.

Dean Young and Assistant Dean Balakrishna emailed LASL students during study week, on October 11. The email began: *"We are deeply troubled by last weekend's horrific attacks, and the escalating violence, human suffering, and loss of life in Israel and Palestine."* It continued:

We know that many of our students and their loved ones are experiencing this conflict personally. As educators and legal professionals responsible for supporting human rights, upholding the rule of law, promoting dialogue and encouraging understanding, we join those who advocate for peace and justice. It is important that we reconcile deep empathy for Palestinian and Israeli statehood while condemning atrocious attacks against innocent civilians. Our hope is for a sustainable de-escalation and resolution of the conflict.

We also recognize that conversations about this situation can be difficult and even painful, and that there are a variety of perspectives and beliefs within our law school community. If you are engaging in discourse with community members, please do so with humility, empathy, respect, and professionalism. Remember that all community members must act in accordance with both TMU's Student Code of Conduct and its Discrimination and Harassment Prevention Policy. There is no room for anti-Semitism, anti-Palestinian racism, or any other form of discrimination at our law school.



The October 11 email reminded students about the resources available to support their health, safety, and wellbeing. It concluded by encouraging students to reach out directly to Assistant Dean Balakrishna “to discuss this message or any other issues of concern in the law school community.”

Similar statements were posted on the university website: on October 12, TMU posted a “Statement on the Conflict in the Middle East” (on the webpage of the Vice-President, Equity and Community Inclusion).⁵¹ And on October 16, the first day after the study break, Mohamed Lachemi, President and Vice-Chancellor, and Roberta Iannacito-Provenzano, Provost and Vice-President Academic, issued a statement on “Caring for our community in a time of crisis.”⁵² These statements expressed grief about the recent events in the Middle East, encouraged community members to show compassion and to engage in respectful dialogue, and outlined the resources available to TMU community members.

Within LASL, some students were displeased with the October 11 email because of its perceived neutrality, and were trying to coordinate a response. They launched an email-writing campaign, with emails to Dean Young (and sometimes other members of the Dean’s Office) challenging the law school’s “neutral” statement of October 11. The emails also raised concerns about the social media activity of a member of the administration, who had, on a personal account, shared social media content from the Israel Defense Forces.

In parallel, members of the Muslim Law Students’ Association arranged to meet with members of the LASL administration on October 18. They asked the law school to appreciate the history of Palestinian oppression in the region before October 7, and to take a stronger stance against Israel’s current military campaign in Gaza. They also made a personal request of the administration member to remove the IDF content. The administration member considered the students’ request and removed several posts.

Around this same time, a few law students in the Abolitionist Organizing Collective (AOC) were drafting the letter at issue in this External Review.

⁵¹ Toronto Metropolitan University, Office of the Vice-President, Equity and Community Inclusion, “Statement on the Conflict in the Middle East” (October 12, 2023): <https://www.torontomu.ca/equity/news/2023/10/statement-on-situation-in-the-middle-east/>.

⁵² Toronto Metropolitan University, TorontoMet Today, “Caring for our community in a time of crisis” (October 16, 2023): <https://www.torontomu.ca/news-events/news/2023/10/caring-for-our-community-in-a-time-of-crisis/>.

4.2 The student letter of October 20, 2023

On the afternoon of Friday October 20, 2023, a member of the AOC emailed Dean Young, copying Associate Dean Hudson; Assistant Dean Balakrishna; the AOC's Gmail address; and seven LASL students who were members of the AOC. (One of these seven students did not sign the letter themselves.)

The email stated:

We are reaching out to you as members representing the Abolitionist Organizing Collective (AOC).

The AOC is releasing an open letter this afternoon expressing unequivocal solidarity with Palestine. The letter condemns the LASL's "neutral" position which implicitly denies colonialism and upholds racism and Islamophobia, and requests that the administration release a new statement to include the list of demands that we provided. We will be updating the letter as signatures roll in.

We ask that you uphold the LASL's grounding pillars committed to equity, diversity and inclusion, by providing a public response to the letter by 5:00PM Friday, October 27th, 2023.

Regards,

AOC

The words "open letter" were hyperlinked to a Google Document. As we understand it, the linked document was then in "view-only" mode, meaning it was *visible* to anyone who obtained the link, but could only be *signed* by those with a TMU email address (i.e. someone would click on a link within the document and be taken to a form where they had to log in with a TMU account in order to be able to sign).

Law students had access to the link by the afternoon of October 20 at the latest, when the AOC emailed the Deans. That afternoon, the AOC also shared the link on the law students' Discord channel. We have seen a screenshot of this post, which was only intended to be accessible to law students. The post shared the link to the letter with the caption "*Hey everyone! SIGN THIS LETTER if you wish to demand that the LASL administration unequivocally stand in solidarity with Palestine! #FREEPALESTINE*", with multiple Palestinian flags, and with a link to the view-only Google Doc.

The AOC also posted the full text of the letter in a series of stories on their public Instagram account. One of the Instagram stories was captioned: "*If you're a member of the LASL community and you stand with Palestine, sign this letter [LINK] Then...SHARE! SHARE! SHARE! #ISTANDWITHPALESTINE*" with a Palestinian flag.

In addition, AOC members shared the link on their personal Instagram and TikTok accounts. The link was also circulating in student group chats on WhatsApp, including the AOC's WhatsApp group.

Because the AOC's Instagram account was public, and because the link was being widely disseminated within the LASL community and on students' personal social media accounts, the letter was also being seen and accessed by people outside TMU.

We have chosen to reproduce the letter here. The letter is what this External Review is about, and it is important that the full text be included in order for our report to be properly understood. The letter stated:

Lincoln Alexander School of Law's unequivocal solidarity with Palestine and list of demands for the administration

October 20, 2023

To: Founding Dean and Professor Donna Young; Associate Dean, Academic and Professor Graham Hudson; and, Assistant Dean, Student Programming & Equity Anita Balakrishna

We stand with Palestine

The Abolitionist Organizing Collective and the undersigned members of the Lincoln Alexander School of Law (LASL) community, unequivocally support Palestine.

"'Israel' is not a country, it is the brand of a settler colony."¹ So-called Israel has been illegally occupying and ethnically cleansing Palestine since 1948, when the British unlawfully conceded Palestine's territory.

We, the undersigned, recognize that the apartheid state referred to as "Israel" is a product of settler colonialism. We stand in solidarity with Palestine and support all forms of Palestinian resistance and efforts toward liberation.

We condemn any statement that denies or shifts away from the narrative of colonialism, or which equates the struggle of the oppressed with the acts of their oppressor. This is neither a war, nor a conflict: Palestinians are the subjects of Israel's colonization and genocide, and the denial of such is an act of complicity in the ensuing violence.

We condemn any organization that *only* condemned Hamas' recent war crimes killing 1300 Israelis, but has been and/or remains silent on the *historic* and *ongoing* war crimes committed by Israel. For the last 17 years, Israel has imposed a military blockade on Gaza. Throughout that time, Gaza has undergone five major wars

¹ Subhi, "I Stand With Palestine" (13 October 2023), [online \(reel\)](#).

waged by Israel—which remain unaccounted for—resulting in several mass murders of Palestinians.²

Between January 1st 2008 and September 19th 2023, Israel killed 6407 Palestinians, 1437 of whom were children.³ In just the last 14 days, Israel's war crimes in response to Hamas' attack have killed at least 4,079 Palestinians, including 1,413 children.⁴

We assert that Hamas' attack was a direct result of Israel's 75-year-long systemic campaign to eradicate Palestinians, and that Israel is therefore responsible for *all* loss of life in Palestine. To say otherwise is to accept and endorse colonialism in all its forms: there would be no death if not for Israel's apartheid regime.

Demand for the LASL Administration to name and confront Israel's colonial violence

As people living in a settler colony on the lands of the Indigenous Peoples of Turtle Island, we are directly implicated in the violence taking place in Palestine, both historically and on-going—the 'Canadian' state itself is considered *the architect of apartheid*.⁵

We therefore recognize our role in calling for an end to Israel's occupation, displacement, and genocide of Palestinians.



We condemn the LASL’s “neutral” position which implicitly denies colonialism and upholds racism and Islamophobia, and request that the administration release a new statement:

1. Demanding an immediate ceasefire and end to Israel’s current genocidal campaign;
2. Demanding that Canada allow humanitarian aid into Gaza;
3. Demanding an end to the entire system of settler colonialism that has strangled Palestine for the last century;
4. Recognizing Palestinian resistance as fundamentally just and as a means of survival for Palestinians;

² “Israel/occupied Palestinian territory: UN experts deplore attacks on civilians, call for truce and urge international community to address root causes of violence”, *United Nations Human Rights Office of The High Commissioner* (12 October 2023), [online](#).

³ United Nations Office for the Coordination of Humanitarian Affairs, *Data on casualties* (2023), [online](#).

⁴ “Israel destroys a quarter of northern Gaza Strip, Palestinian death toll exceeds 4,000”, *United Nations Office for the Coordination of Humanitarian Affairs reliefweb* (19 October 2023), [online](#).

⁵ Mark Krebs, “Architect of apartheid”, *Briarpatch* (1 May 2012), [online](#).

5. Demanding a Canadian arms embargo;⁶ and,
6. Demanding economic sanctions against Israel by pressuring Canada to withdraw from the Canada-Israel Free Trade Agreement (CIFTA).⁷

We ask that the LASL uphold its grounding pillars committed to equity, diversity and inclusion, by providing a public response to this letter by **5:00PM Friday, October 27th, 2023**.

Signed,

*[This is a view-only version of the statement. If you are a member of the Lincoln Alexander School of Law and wish to sign it, please click [here](#). *Note: the Google form does not contain the footnotes and citations; please read the statement in this here document before signing. Due to documented patterns of retaliation against individuals who advocate for Palestinian human rights, signees have been invited to sign using a descriptor (e.g. student in solidarity; student, 3L; Pro-Palestine supporter) instead of a name if they wish in order to protect their own safety]*



⁶ Canada exported over \$20-million in military goods to Israel in 2022, including \$3.1-million in “bombs, torpedoes, rockets, missiles, other explosive devices and charges and related equipment and accessories.” Despite signing the International Arms Trade Treaty in 2019 and committing to transparency in arms sales, Canada does not require manufacturers to report what they are sending, obfuscating whether Canadian explosives are being used to murder Palestinians; Global Affairs Canada, *2022 Exports of Military Goods* (2023), [online \(pdf\)](#).

⁷ CIFTA, Bill C-85 allows Canada to trade goods and services originating from Israeli settlements. Importantly, this of course perpetuates the colonization and genocide of Palestinians, but also violates both domestic and international laws, norms, and principles prohibiting civilian settlements in occupied territory, and designating the establishment of civilian settlements in occupied territory as a war crime. Prime Minister Trudeau's response to the recent events in Palestine called for the respect of International Law, Humanitarian Law, and Human Rights Law, all the while Canada's continued violation of such enables Israel's ongoing colonization of Palestine; Michael Lynk, “Canada's updated trade agreement with Israel violates international law”, *The Conversation* (29 May 2019), [online](#).

The letter obtained 74 signatures: 72 signatures from LASL students, 36 of whom signed anonymously or by initial; one signature from the AOC; and one signature from someone identified as “*student, alumni*.”

The letter sparked immediate concern within the LASL community. We understand that there was an emergency meeting of LASL administrators on Saturday October 21. Leaders in the Lincoln Alexander Law Students' Society and the Muslim Law Students' Association were also engaged over the weekend. These student leaders wanted to create a pathway for dialogue about the issues in the letter, while seeking to convince the AOC that it was harmful to continue spreading the letter as worded.

Between October 21 and October 22, the signatories' names were made anonymous.

The letter was taken down on the morning of October 22. It was reposted that evening but taken down again, in the early hours of October 23.

By that point, though, the letter was in wide public circulation, including on LinkedIn and Twitter / X. The social media discourse, and doxxing of signatories, became particularly pronounced and heated on Sunday October 22.

The letter was no longer available online as of October 23, although screenshots were still being widely shared on social media.

Because there were many ways in which the letter could have circulated and did circulate outside the LASL community, we will generally refer to the letter “becoming public” rather than being “leaked”, as many have characterized it.

4.3 LASL's statement of October 23, 2023

On October 23, 2023, “Lincoln Alexander School of Law’s statement in response to the Open Letter” was posted online.⁵³ This statement was not attributed to any particular member of LASL administration. The statement condemned the sentiments in the open letter:⁵⁴

Last Friday, a collection of individual students at Toronto Metropolitan University’s Lincoln Alexander School of Law posted an open letter to the law school’s administration.

The Lincoln Alexander School of Law did not issue, endorse or condone this letter. We unequivocally condemn the sentiments of Antisemitism and intolerance expressed in this message.

The letter does not represent the views of our law school or the many students, faculty, staff and community members that are committed to upholding our values of inclusivity, dignity, and respect. Statements that seek to promote or justify violence directly contravene these values.

The Lincoln Alexander School of Law was created on a foundation of inclusion and a commitment to care for each other and the communities we serve. As educators and members of the legal community, we maintain our support for Israeli and Palestinian statehood and we stand with those who advocate for a peaceful, sustainable de-escalation and resolution of the conflict.

The law school acknowledges the immense pain and damage that this letter has caused. We expect our students, staff and faculty to engage in civil discourse that supports human rights, upholds the rule of law, and promotes understanding while being mindful of the core principles of freedom of expression. The law school does not tolerate Antisemitism, Islamophobia or statements that promote violence, terrorism, discrimination, racism, and hate. All TMU community members are expected to act in accordance with university policies including the Student Code of Conduct and the Discrimination and Harassment Prevention Policy. These policies reflect the

⁵³ Toronto Metropolitan University, Lincoln Alexander School of Law, “Lincoln Alexander School of Law’s statement in response to the Open Letter” (October 23, 2023): https://www.torontomu.ca/law/news-events/2023/10/lincoln_alexander_school_of_laws_statement_in_response_to_the_open_letter/.

⁵⁴ Bolding and italics in original version.

values that foster a safe and respectful educational environment as well as the principles of fairness and due process.

Our students, faculty, staff and supporters have taken a thoughtful and intentional approach to building a diverse, equitable, and inclusive community, which honours the legacy of our namesake, The Honourable Lincoln Alexander. We are incredibly grateful to the legal community for the support they have extended to us. Our hope is that we can move forward in a way that upholds the values of our law school, fulfills our duty to the public, and embraces our shared humanity.

Many students and/or student organizations have suggested that the administration’s response to the letter was partially a result of donor pressure. However, the administration has denied this.

4.4 Reactions to the letter from outside TMU

Meanwhile, the letter became the subject of considerable media and social media attention.⁵⁵ The names and photographs of the students who signed the letter were being circulated online, including on X / Twitter, LinkedIn, and a website called “HonestReporting Canada.” This is known as “doxxing.”⁵⁶

On October 23, B’nai Brith Canada called for the students to be expelled, referring to them as “terror apologists.”⁵⁷ The *Financial Post* published an article on November 3, 2023 by lawyer Howard Levitt who also called for the 74 students to be expelled, or at least suspended. Under the subheading “What can and should we do?” the author

⁵⁵ See e.g. Kunal Chaudhary, “Ontario government screened law students who signed pro-Palestine letter”, *The Breach* (December 21, 2023): <https://breachmedia.ca/ontario-government-screened-law-students-who-signed-pro-palestine-letter/>; Rachel Mendleson, “Inside the crisis at TMU’s law school”, *Toronto Star* (January 13, 2024): https://www.thestar.com/news/investigations/inside-the-crisis-at-tmus-law-school-it-started-with-a-letter-of-support-for/article_9ca1edcc-b179-11ee-a665-b7861590be34.html.

⁵⁶ The Cambridge Dictionary defines “doxing” / “doxxing” as: “the action the action of finding or publishing private information about someone on the internet without their permission, especially in a way that reveals their name, address, etc.”: <https://dictionary.cambridge.org/dictionary/english/doxing>.

⁵⁷ B’nai Brith Canada, “B’nai Brith Canada Asks TMU Law School to Expel Terror Apologist Students” (October 23, 2023): <https://www.bnaibrith.ca/bnai-brith-canada-asks-tmu-law-school-to-expel-terror-apologist-students/>.

suggested, “Circulate the names of the 74 students at TMU ... so that employers will know not to hire them.”⁵⁸

Commenters on news stories and opinion pieces about the letter said the students should be named, expelled, and deported (making assumptions about the students’ nationalities and citizenship status).

Twitter and LinkedIn were replete with similar sentiments, including from lawyers. These are too numerous to detail.

The letter provoked several open letters from the legal community, from those who condemned the letter and those who supported the participants’ freedom of expression. In one letter to Dean Young and President Lachemi that was posted on LinkedIn, the authors stated that the “*Open Letter is nothing less than a hate-filled incitement to violence against Israel and the Jewish people.*”

Lawyer Mark Sandler (who later made submissions to the External Review) started a Change.org petition, entitled “*An Open Letter from Canada’s Law Community*”, that has gathered almost 2,500 signatures.⁵⁹ This petition encouraged the legal community to promote “*respectful dialogue, open-mindedness to opposing perspectives and critical thinking.*” The letter was inspired by, and it endorsed, a joint statement from the Muslim Law Students’ Association and the Jewish Law Students’ Association at the University of Ottawa Faculty of Law (Common Law Section), which emphasized safe and open dialogue, acknowledged the grief of Jewish and Muslim communities, and called for “*sensitivity and tact.*”⁶⁰

The Ontario Trial Lawyers Association (OTLA) endorsed Mr. Sandler’s petition, and also issued a statement saying that it was “*deeply concerned about the open letter.*”⁶¹

⁵⁸ Howard Levitt, “Students who signed petition condoning Hamas should have to answer for their decision”, *Financial Post* (November 3, 2023): <https://financialpost.com/fp-work/students-who-signed-petition-condoning-hamas-must-face-consequences>.

⁵⁹ Mark Sandler, “An Open Letter from Canada’s Law Community”, Change.org petition (October 31, 2023): <https://www.change.org/p/an-open-letter-from-canada-s-law-community>.

⁶⁰ uOttawa Faculty of Law JLSA and MLSA Joint Statement (October 2023): https://www.oba.org/CBAMediaLibrary/cba_on/pdf/ottawauletter_JLSA_MLSA.pdf.

⁶¹ Ontario Trial Lawyers Association President’s Message, “Message to OTLA members denouncing Open Letter by TMU Law Students” (Member Bulletin of Friday November 3, 2023) [link no longer available].

Another legal community letter, which has garnered 722 signatories, expressed support for law students, and lawyers, who were “being threatened with academic sanctions and job loss for advocating against Israel’s atrocities in Palestine.”⁶² This letter stated in part:

We are deeply concerned by the growing chorus of statements from lawyers, law firms and law schools that are conflating expressions of solidarity with Palestinians and criticism of the State of Israel as antisemitic and conduct unworthy of learning or practicing law. In particular:

- *Lawyers are openly advocating on social media to blacklist law students and lawyers who have voiced support for Palestine;*
- *Lawyers are contacting the employers of lawyers and encouraging they be fired for their pro-Palestinian advocacy. Law firms (many of which issued unprecedented, political statements in support of Israel) are rescinding interview offers to students who sign open letters condemning Israel. Law schools are threatening those students with expulsion; and*
- *Lawyers are bullying and defaming others who have voiced support for Palestine or attended demonstrations in support of Palestine, calling them terrorists, antisemites, and other pejoratives. A disproportionate number of these lawyers who are being bullied, in potential violation of the rules of professional conduct, are junior members of the bar, racialized, and/or Muslim.*

...

We, the undersigned lawyers, legal institutions, legal workers and academics commit not to discriminate against anyone for speaking out for justice and freedom for Palestinians.

We will mentor you. We will support you. We are proud to call you colleagues.

⁶² “Open Letter to the Legal Community on Pro-Palestine Speech” (undated [Google Doc](#)). See also Janet Hurley, “Legal community calls out the backlash against TMU law students behind pro-Palestinian letter”, *Toronto Star* (November 6, 2023): https://www.thestar.com/news/gta/legal-community-calls-out-the-backlash-against-tmu-law-students-behind-pro-palestinian-letter/article_f7ef4702-cef3-5ddc-a663-00ca7e4b8d33.html.

One of the most prominent responses to the student letter came from the Ontario Ministry of the Attorney General (MAG), which began requiring law student applicants from TMU to sign an attestation affirming that they did not participate in the open letter.⁶³ The attestation requirement, like other aspects of the backlash against the students who participated in the letter, had a significant impact.

These are just some of the widespread reactions to the student letter. Many of them will come up again later in the report, when we discuss the severe impacts of the backlash on the students who participated.

4.5 Further communications from TMU and LASL

TMU announced on October 27, 2023 that it would be “undertaking a formal review done by an independent, external expert” regarding recent “events, petitions and concerns” at the University.⁶⁴

Later that day (October 27), Dean Young, Assistant Dean Balakrishna, and Associate Dean Hudson emailed LASL students to acknowledge the ongoing impacts of the Middle East crisis on the community, to advise them of the “independent review by an external expert”, and to remind them of available supports. The Deans noted that they were “actively hearing from a wide range of stakeholders that are connected to and invested in our law school.” This email did not refer to LASL’s public statement of October 23.

The Deans’ email concluded:

Again, we appreciate your patience and understanding as we act in good faith to address the challenging circumstances we are currently facing. Please know that we will always seek to act in the best interests of all our students. This community means so much to all of us, and we are committed to moving forward together.

TMU announced on November 7, 2023 that Michael MacDonald had been engaged as an external reviewer.⁶⁵ The External Review process is summarized in detail in the next part of the report.

⁶³ See e.g. Kunal Chaudhary, “Ontario government screened law students who signed pro-Palestine letter”, *The Breach* (December 21, 2023): <https://breachmedia.ca/ontario-government-screened-law-students-who-signed-pro-palestine-letter/>.

⁶⁴ Toronto Metropolitan University, TorontoMet Today, “TMU to undertake review of recent events, increase supports for the community” (October 27, 2023): <https://www.torontomu.ca/news-events/news/2023/10/tmu-to-undertake-review-of-recent-events-increase-supports/>.

⁶⁵ Toronto Metropolitan University, TorontoMet Today, “Toronto Metropolitan University appoints the Honourable J. Michael MacDonald” (November 7, 2023):

In a November 29, 2023 email, Dean Young updated the students on the law school's response to recent events, informing them that a "working group" was being established *"to bring together law school students, staff and faculty to create opportunities for continued dialogue and healing as a community"* and that the working group would be *"entirely separate"* from the external review; encouraging *"all law school community members to bring empathy, compassion, and care to [their] interactions with one another"*; committing to *"address any allegations of discrimination and harassment via the appropriate channels at the university"*; and listing available supports.

<https://www.torontomu.ca/news-events/news/2023/11/tmu-appoints-honourable-j-michael-macdonald/>.



Part 5.0

EXTERNAL REVIEW PROCESS



5.0 EXTERNAL REVIEW PROCESS

This part of the report discusses, in more detail, the appointment of the External Reviewer, the application of the Code, and the process of the External Review team – and acknowledges the challenges faced along the way.

5.1 Appointment of the External Reviewer

Mr. MacDonald was appointed as External Reviewer on November 6, 2023. The details of the appointment were provided in a letter to Mr. MacDonald from TMU General Counsel, on behalf of TMU, and in the Terms of Reference attached to the letter.⁶⁶

The letter set out a complaint by the University:

Pursuant to section 1.1 of the Procedures under the Student Code of Non-academic Conduct (the “Code”), TMU requests that, in accordance with the Code, you determine whether any TMU student who participated in the Open Letter has, in doing so, engaged in conduct that does not meet TMU’s community standards, contrary to section 6 of the Code.

Section 1.1 of the Procedures under the Code states that: “In some cases, the University may be the complainant.” That was the case here.

It is important to note that the University did not allege that “any TMU student who participated in the Open Letter” did breach TMU’s community standards. The University chose more objective language. Essentially, the University used the infrastructure of the Code to appoint an external reviewer who could conduct an independent assessment of the letter and students’ participation in the letter.

This is clear from the Terms of Reference:

1. *On October 20, 2023, 72 students from Lincoln Alexander School of Law (“LASL”) publicly released a letter, including a petition and statement, to the Founding Dean, Associate Dean, and Assistant Dean of LASL (the “LASL Letter”).*
2. *TMU has issued a Complaint, as defined in section 4.11 of the Student Code of Non-Academic Conduct (the “Code”), concerning the LASL Letter (the “University’s Complaint”).*
3. *The External Reviewer shall be appointed as the designate of the Student Conduct Office, the Executive Director, Student Affairs, and*

⁶⁶ A copy of the letter and Terms of Reference can be found at Appendix B.

the Vice-Provost, Students, under sections 4.30, 4.15, and 4.33 of the Code, to

- i. undertake the Complaint Resolution Process, as described in section 8 of the Code and section 2 of the Procedures under the Code;*
- ii. make Decisions, as described in sections 8.3 and 9 of the Code and sections 2.2 and 3 of the Procedures; and*
- iii. subject to the foregoing, and if the External Reviewer deems appropriate, assign appropriate outcomes, as described in section 10 of the Code and section 4 of the Procedures (collectively, the “**External Review**”)*

with respect to the University’s Complaint.

- 4. Subject to section 15 of the Code, and without limiting the foregoing, the External Reviewer shall conduct the External Review in accordance with the Code and the Procedures and shall be the Decision Maker (as defined in section 4.13 of the Code) for all aspects of the External Review.*
- 5. The External Reviewer shall determine, in consultation with the Office of General Counsel, the reasonable legal and other expert support services required for the External Review.*
- 6. At all times in the conduct of the External Review, the External Reviewer shall endeavour to apply the highest standards of legal reason and respect for TMU’s Mission Statement.⁶⁷*

To make one preliminary point of clarification, the External Reviewer did not assume that the 72 students “publicly released” the letter as stated in paragraph 1 of the Terms of Reference. The manner in which the letter became public was treated as an open question.

The External Reviewer determined early on, and advised the University, that he would also produce a public-facing report, similar to other recent external reviews for universities. This was seen as a way to add value to the mandate in light of the public interest in the External Review, with the ultimate goal of helping TMU and LASL move forward.

⁶⁷ Section 4.11 of the Code defines “Complaint” as: “A Complaint of an alleged breach of community standards under this Code.”

Paragraph 5 of the Terms of Reference allowed the External Reviewer to determine the legal support services required for the External Review. As Mr. MacDonald is currently Counsel to Stewart McKelvey, he was able to access the Firm’s resources for purposes of the External Review.

Mr. MacDonald invited two Stewart McKelvey lawyers, Jennifer Taylor and Katharine Mack, to join the External Review team. Ms. Taylor and Ms. Mack attended all student and stakeholder meetings; corresponded with students and stakeholders on behalf of the External Review team; co-drafted this report with Mr. MacDonald; assisted with drafting individual decision letters to students (although all decisions are Mr. MacDonald’s own independent decisions); and provided other assistance to Mr. MacDonald as needed. A small number of other Stewart McKelvey colleagues supported the team.

5.2 Provisions of the Student Code of Non-academic Conduct and Related Documents

“The Code is the foundation that governs student behaviour and conduct at the University”, as stated in Section 3.4. The purpose of the Code is found in Section 1:

The purpose of the Student Code of Non-Academic Conduct (“Code”) is to establish community standards of non-academic conduct for Toronto Metropolitan University (“the University”). The Code educates the University’s students by providing a non-exhaustive list of the rights, expectations, and responsibilities related to non-academic student conduct. The Code provides a Complaint resolution process that is fair. The Code identifies sanctions that may be assigned which are proportionate to conduct that does not meet community standards; conduct that jeopardizes the proper and orderly functioning of academic and non-academic programs, activities, or operations of the University; conduct that endangers the health, safety, rights, or property of the members of its community, or conduct that adversely affects the property of the University or entities related to the University. The Code provides for and outlines the support available to University community members impacted by conduct that does not meet community standards. [emphasis added]

Section 2 describes the Code as **educational** and **supportive**, and designed to ensure **accountability** and **fairness**.

Under Section 3, the Code applies to on-campus, off-campus, and online conduct. The students’ participation in the letter, which they emailed to LASL administration, involved all three types of conduct.

The Code takes an incremental approach by having complaints referred to one of three offices, depending on the severity of the allegation. In ascending order of severity, these are the Student Conduct Office; the Executive Director, Student Affairs; and the Vice-Provost, Students. The gravity of the authorized sanction is also commensurate with the seriousness of the allegation. The definition of each office includes “their designate” (see Sections 4.15, 4.30, and 4.33).

The External Reviewer was appointed as the designate for all three bodies, presumably to ensure that all options remained available.

With this delegated authority, the External Reviewer was asked to:

- “*undertake the Complaint Resolution Process*”;⁶⁸
- “*make Decisions*”;⁶⁹ and
- “*subject to the foregoing, and if the External Reviewer deems appropriate, assign appropriate outcomes, as described in section 10 of the Code and section 4 of the Procedures.*”

This designation and delegation of authority enabled the External Reviewer to be independent and flexible while still operating within the infrastructure of the Code.

The ultimate substantive issue for the External Reviewer to decide was whether there had been a “breach of community standards”, defined in Section 4.7 of the Code as: “*A finding by a decision maker that a respondent’s conduct has not met the University’s community standards.*” The “balance of probabilities” threshold applied (see Section 8.4). This means that, as defined in Section 4.6, “*The evidence shows it is more likely than not the alleged breach of community standards occurred.*”

Section 5 of the Code contains multiple “Values and Principles” including equity, diversity, and inclusion; freedom of expression; accountability; harm reduction; procedural fairness; and support.

⁶⁸ The Terms of Reference cite Section 8 of the Code, and Section 2 of the Procedures.

⁶⁹ The Terms of Reference cite Sections 8.3 and 9 of the Code, and Sections 2.2 and 3 of the Procedures.



Section 5.3 provides that: “The spirit of the Toronto Metropolitan University Statement of Student Rights and Responsibilities is applicable and fundamental to this Code.” The student rights include the right to:⁷⁰

- *enjoy all rights and freedoms recognized by law;*
- *a learning environment that is safe, free from harassment and discrimination;*
- *a learning environment which is characterized by mutual respect and civility;*
- *a learning environment that, while safeguarding dissent, is free from interference and disruption;*
- *an environment which ensures that administrative decisions are made, or actions taken, with fair regard for the known and legitimate interests of students;*
- *an environment where adequate measures are taken to protect the security of students on University property [...]*

Student responsibilities include the responsibilities to “abide by federal, provincial and municipal statutes in addition to University policy” and “treat all members of the community, including faculty, staff and fellow students, with respect.”

Returning to the Code, Section 6 summarizes the “community standards for non-academic student conduct”:

All students at the University are expected to conduct themselves in a manner that supports the University as a learning, teaching, living, research, and work environment where the rights and responsibilities of all students, staff, and faculty are respected. Students may also be responsible for the conduct of their guests.

The Toronto Metropolitan University Statement of Student Rights and Responsibilities outlines that students are expected to strive to make the community safe and uphold an environment defined by mutual respect, equity, civility, dignity, and inclusivity.

⁷⁰ Toronto Metropolitan University, Statement of Student Rights and Responsibilities (Approved at Senate April 1, 2003): <https://www.torontomu.ca/senate/documents/studentrights.pdf>.

More information about the Toronto Metropolitan University Statement of Student Rights and Responsibilities is found on the Senate website.

Section 6 then references other University Policies:

The Code works in accordance with the Sexual Violence, Residence Community Standards, and the Discrimination and Harassment Prevention Policies to combat sexual violence, harassment, and discrimination of all forms. The University is committed to fostering diversity and inclusion where all community members feel welcomed, valued, seen and heard. The policies must work in coordination to promote a culture of consent and to confront all barriers to equity, diversity, and inclusion such as racism, anti-Black racism, anti-Indigeneity, anti-Asian racism, Islamophobia, anti-Semitism, xenophobia, gender-based violence, gender inequity, sexism, homophobia, transphobia, colonialism, ableism, and ageism.

Students are to comply with all municipal, provincial, and federal laws and any professional standards related to their course of study.

Finally, Section 6 provides a “non-exhaustive list of conduct that does not meet the University’s community standards” including:

- **6.1 Violence, and/or Threats of Violence, to a Personal’s Physical or Mental Well-being**
- **6.2: Harassment**
- **6.3: Disrupting or Interfering with University Operations**
- **6.4: Conduct that Breaches the Law**
- **6.5: Damage to University and Community Members’ Property**
- **6.6: Conduct that Breaches University Policies and Procedures** (including the Discrimination and Harassment Prevention Policy); and
- **6.7: Abuse of the Code or other University Policies.**

The University’s complaint did not specify which discrete aspects of the Code were alleged to have been breached. Neither did it specify whether any aspects of the letter were of particular concern to the University. Many of the respondent students asserted that they did not have sufficient details of the case they had to meet, and asked that the complaint be dismissed on this basis. This issue is dealt with in Part 7.1 of the report.

Returning to the Code once again, Section 6 of the Code incorporates the Discrimination and Harassment Prevention Policy,⁷¹ whose provisions will be discussed elsewhere in the report.

Section 7 of the Code requires those involved in the complaint resolution process “to keep confidential, outside the people supporting them, any personal information they learn in this process, to ensure the integrity of the Investigation and decision-making process.”

Section 9 says that a decision-maker may impose “Interim Measures.” No Interim Measures were imposed here.

Section 10 lists the Sanctions that may be assigned “following a decision that there has been a breach of community standards.” Notably: “Sanctions can range from a requirement to attend an educational program, up to and including expulsion.” Again, the possible Sanctions depend on which University office is exercising decision-making authority; for example, only the Vice-Provost, Students has the authority to assign the sanction of expulsion.

The **Student Conduct Office** may assign the following Sanctions (under Section 10.1):

- written reprimand;
- written notice of behavioural expectations;
- requirement to complete a facilitated educational activity;
- community or university service;
- restitution of up to \$500;
- restrictions on accessing University services and premises;
- an “order to refrain from direct or indirect communication with another individual or group”; and
- non-binding recommendations “to promote the learning, well-being, and success of the respondent.”

The **Executive Director, Student Affairs** may (under Section 10.2) assign any of the above Sanctions, and may also assign the Sanctions of:

⁷¹ Toronto Metropolitan University, *Discrimination and Harassment Prevention Policy* (Approved November 2011):
<https://www.torontomu.ca/policies/policy-list/dhp-policy/>.

- restitution, “up to and including” the full amount of loss or damage;
- de-enrollment (“Withdrawal from a current course”);
- limitations / restrictions “from enrolling in a specific future course”; and
- “Non-Academic Disciplinary Suspension” for up to two years.

The **Vice-Provost, Students** may assign any of the above Sanctions, and also has the discretion to assign the Sanctions of “Non-Academic Disciplinary Withdrawal” for at least two years, or expulsion (“Permanent removal of a student from the University”). See Section 10.3.

Having been appointed as the designate of all three University decision-makers, the External Reviewer was authorized to assign any of the above Sanctions.

Under Section 15 of the Code, the External Reviewer also had the authority to extend any timeline “with notice to the parties.” In the circumstances of the External Review, it was not possible to complete an investigation within 30 business days,⁷² nor to issue a written decision within 10 days thereafter.⁷³

Other relevant sections of the Code will be discussed throughout the report.

5.3 Details of the External Review process

The Code and the Terms of Reference provided the procedural backbone for the External Review, but our team still had to flesh out the details of how the process would unfold. In the earliest days of the External Review we often said that we were “*building the plane as we were flying it.*” Ultimately, we adopted a restorative approach, as we will explain. Key to this approach was ensuring that the participant students, as respondents to a complaint by the University, had the opportunity to be heard, to share their individual circumstances, and to explain the context of their participation in the letter.

We would be remiss not to acknowledge that mistakes were made as we got the External Review off the ground. We recognize that some of our missteps — particularly at the beginning of the process — caused undue stress and anxiety for the LASL community, and we sincerely apologize.

5.3.1 Context meetings

TMU arranged for the External Review team to have a series of meetings on November 21 and 22, 2023 with key university stakeholders.

⁷² As provided in Section 2.4 of the Procedures to the Code.

⁷³ As provided under Section 3.3 and Section 3.4 of the Procedures to the Code.



The purpose of these meetings was to educate us about TMU and LASL and to discuss the immediate impacts of the letter at the University.

We met with:

- James Noronha, President of the Lincoln Alexander Law Students' Society
- Rivi Frankle, Interim Vice-President, Advancement and Alumni Relations
- Dr. Steven Liss, Vice-President, Research and Innovation
- Donna Young, LASL Founding Dean
- Dr. Roberta Iannacito-Provenzano, Provost and Vice-President, Academic
- Dr. Tanya De Mello, Vice-President, Equity and Community Inclusion
- Michael Forbes, Assistant Vice-President, University Relations
- Dr. James L. Turk, Director, Centre for Free Expression

TMU also organized a further series of context meetings on December 4, 2023 with Jen McMillen, Vice-Provost, Students; the Muslim Employee Community Network; the Jewish Employee Community Network; and the Jewish Law Students' Association, and on January 12, 2024 with the Muslim Law Students' Association.

We held a follow-up meeting with Vice-President De Mello in December.

As well, we met again with Dean Young in December, together with Associate Dean Graham Hudson who would be assuming the role of Interim Dean in January 2024. We met separately with Dr. Sari Graben, Associate Dean Research & Graduate Studies and Associate Professor at LASL.

5.3.2 Anonymous and Initialed Signatories

About 36 of the 74 participants in the letter signed anonymously or by initial.

This posed a procedural challenge for the External Review: all of these students were respondents to the University's complaint and therefore had a right to be heard, but we did not know who they were.

Our External Review team sought to approach this issue as delicately as possible. For that reason, we decided not to take any formal investigative measures to identify the students in this group. Any such investigation would have jeopardized the trust we wanted to build, and we also did not want students to feel compelled to act as whistleblowers or tell on each other.

At the same time, we had to allow for the possibility that, during the course of the review, we could learn the identities of students who participated anonymously. Like the students who signed by name, they too were entitled to be heard in the External Review. This is why the External Reviewer's initial letter to all LASL students offered the 'anonymous' students an opportunity to proactively reach out and schedule a meeting.

Only one anonymous student took up this offer, and we regret that more students did not feel comfortable enough to do so. However, we understand the fear that students who signed anonymously would be putting themselves at greater risk by coming forward. Their absence leaves a gap in the story.

Some students asked whether anonymous submissions would be accepted. This request was declined. We felt it important to know the names and identities of the students in order to properly consider their submissions.

5.3.3 Initial correspondence to students

We set up an email address for use during the External Review. While email is not always an ideal way to communicate, it was the best option in the circumstances. For various reasons of technology and efficiency, we chose not to create a website.

On November 29, 2023, the External Reviewer sent personal emails, attaching personalized letters, to each of the named signatories. The letter said in part:

You are receiving this letter because your name appears on the open letter's list of signatories. This means that TMU has made a complaint against you under the Code for participating in the open letter, that my External Review may result in a finding that you breached the Code, and that, if it does, you may be subject to the outcomes in section 10 of the Code. A copy of the open letter is attached to my email, for your reference.

I would like to meet with you as part of the External Review process. The purpose of our meeting would be to discuss the open letter, the External Review process (including the possibility of alternative dispute resolution), and the potential outcomes. This will be your opportunity to be heard in response to TMU's complaint.

*I hope to have a series of meetings with the various participants during **the weeks of January 22, 2024 and January 29, 2024**. I hope that you will make yourself available to meet with me. Kindly reply to my email by 4pm EST on January 10, 2024 indicating your availability during those weeks.*

Of course, I understand that this time may not be possible. If it is not, please let me know by reply email and I will do my best to make alternative arrangements. Please also let me know if you require any accommodations for our meeting.



Throughout this process, you are entitled to support and assistance from a person of your choosing. This person will be invited to attend our meeting. Still, it will be important that I hear from you directly. Under the Code, you are expected to speak on your own behalf.

I sincerely hope that you accept this invitation and that we have the opportunity to speak.

Also on November 29, 2023, the External Reviewer emailed a letter to all LASL students to explain that students who had signed the letter by initials or anonymously were entitled to participate in the review:

I have reached out to participants in the open letter to request that they meet with me during the week of January 22, 2024 or the week of January 29, 2024. All students who signed the open letter by name should have received correspondence from me to this effect.

Please note that TMU's Student Code of Non-academic Conduct applies to this External Review.

The complaint that initiated the review has been made against all TMU students who participated in the open letter. As such, even TMU students who signed anonymously may be declared to have been in breach of the Code. Further, to the extent these students are identified during the review process, they could be subject to the outcomes stated in section 10 of the Code and referred to in section 4 of the Procedures under the Code.

If you are an anonymous participant in the open letter, you will be provided with an opportunity to identify yourself, confirm your status as a signatory to the open letter, and participate in the review by meeting with me during the weeks of January 22 and 29, 2024.

Should you wish to do so, please send an email with your name and TMU email address to [...] by 4pm EST on January 10, 2024.

If a student is identified through the External Review process and therefore becomes a named respondent to the complaint, I will request to meet with them.

Both letters introduced Mr. MacDonald and explained his appointment. They concluded by listing resources that were available to support students' wellbeing.

Our priority was procedural fairness: we wanted to send these letters as soon as possible, and in any event, before December exams and the holiday break. In doing so, we neglected to provide LASL administration with advance notice to ensure they were prepared to support students after they received our letters.



We completely understand that many students felt blindsided when they received our correspondence, and that the correspondence raised suspicion in an already tense atmosphere. We continue to regret this bumpy start to the process.

In hindsight, we should have started with a Town Hall or similar informal event, rather than starting with formal letters in November and waiting until January to hold a Town Hall.

After we learned how much stress our initial approach had caused, we started giving a heads-up to the Dean's Office and to the LASL Manager, Health & Wellness and Academic Success about when we planned to email the students. We received positive feedback after we implemented this practice and we believe it helped the process run more smoothly.

5.3.4 FAQs, Town Hall, and Guidance Documents

On December 1, 2023, we circulated a "Frequently Asked Questions" (FAQs) document to Lincoln Alexander students, which attached a copy of the University's initial letter and the Terms of Reference. The FAQs discussed the terms of the external review, the complaint, the expected timeline, and other procedural matters. The FAQs confirmed that students could bring a lawyer or advocate, as well as a friend or other support person, with them to their meetings.

We updated the FAQs to incorporate another batch of questions, and the revised version was circulated on January 9, 2024.⁷⁴

The External Reviewer held a virtual Town Hall over Zoom for LASL students on January 18, 2024 to talk about the External Review process and what students could expect from their meetings with the External Review team.

All LASL students were welcome to attend the Town Hall, regardless of their involvement with the open letter, and we believe a majority of LASL students were in attendance. To protect students' confidentiality, no pre-registration was required to attend the Town Hall. Students had to input a first name and last name to enter the Zoom, but they could use a pseudonym, like: "Student1 TMU1."

The Town Hall was moderated by James Noronha, President of the Lincoln Alexander Law Students' Society. We thank Mr. Noronha for his assistance.

The Q&A function was enabled during the webinar, and several students also sent questions via email. All told, we received over 100 questions from students in advance of and during the Town Hall.

⁷⁴ The Frequently Asked Questions, as updated on January 9, 2024, are attached as Appendix A.

After the Town Hall, we prepared a Reference Guide, organized around the common themes and topics that appeared in the Town Hall questions.⁷⁵

From our perspective, the Town Hall represented a turning point in our process. It was an opportunity for students to hear from the External Reviewer directly, in a candid conversation, which hopefully enhanced trust in our work. Our subsequent student and other stakeholder meetings served to further build that trust. We remain grateful for this.

Initially, respondent students had been asked to confirm by January 12, 2024 whether they were willing to meet with the External Reviewer. This deadline was extended until January 19, 2024 (after the Town Hall), in response to persuasive submissions and requests for extensions from students and their counsel.

All students received a Guidance Document that outlined the questions and topics that the External Reviewer hoped to cover in meetings with respondent students.⁷⁶

The questions were intended to reflect restorative principles by asking students to consider their relationships with others, the personal and professional impacts of the letter, and ways LASL could move forward.

5.3.5 Alternative Dispute Resolution and Restorative Approach

The initial and revised Frequently Asked Questions signalled the External Reviewer's openness to the possibility of Alternative Dispute Resolution (ADR).

"Alternative Dispute Resolution" is defined in Section 4.2 of the Code:

The process of resolving disputes outside of an Investigation through agreements between parties. ADR processes may include conciliation, mediation, restitution, and restorative justice.

The External Reviewer confirmed during the Town Hall that he intended to take a restorative approach, rather than adopting a discrete process that could be characterized as "conciliation", "mediation", "restitution", or "restorative justice."

This prompted many questions about what was meant by "a restorative approach" and whether mediation would be available instead. In particular, the External Reviewer received about 24 nearly identical mediation requests from respondent students and their representatives. This correspondence proposed "a confidential, without prejudice ADR

⁷⁵ A copy of the Reference Guide, dated January 31, 2024, is attached as Appendix C.

⁷⁶ A copy of the Guidance Document for Student Meetings, dated January 17, 2024, is attached as Appendix B.

mediation process” that would occur prior to and separate from the students’ participation in a formal interview.

Under Section 8.1 of the Code, the External Reviewer considered whether this kind of additional standalone ADR process would be appropriate in the circumstances. Here, the context is again important: this was not an individual complaint where ADR might be offered as between two parties. The situation under review had collective elements that were relevant to understanding what happened and determining appropriate paths forward. As well, given widespread concerns about timeliness, it would not have been efficient to add a preliminary round of ‘off-the-record’ meetings that may not have resolved the University’s complaint.

Furthermore, the “ADR mediation process” that was proposed did not clearly account for the University’s involvement, even though the University, as complainant, would have had to agree to resolving the complaint outside of the investigation that had already been delegated to the External Reviewer.

In this context, the External Reviewer determined that a preliminary separate ADR process was unnecessary, given that he intended to adopt a restorative approach in any event. Taking a restorative approach did not entail using particular practices or processes as *alternatives* to the External Reviewer’s formal, and independent, role. Instead, it was a commitment to be guided by restorative principles in the way the External Reviewer, and the team, approached and carried out its work.

This is distinct from “restorative justice” as defined in Section 4.26 of the Code:

An alternative approach to resolving Complaints that focuses on addressing the harm caused by the breach and holds the respondent accountable for their actions. It involves engaging the complainant, respondent, and community in the resolution of the Complaint. Restorative justice processes take various forms and are always voluntary.

Importantly, in adopting the restorative approach for the External Review, it was not assumed that a breach had occurred.

The External Reviewer acknowledges the potential incongruity of adopting a restorative approach when all available disciplinary sanctions under the Code, up to and including expulsion, remained ‘on the table.’ This was a serious concern for many students and their representatives.

Tempting as it was to take certain sanctions off the table, doing so would have risked prejudging the outcome of the External Review. Until the process concluded, it was important to leave open the possibility that a student may have flagrantly breached the community standards in the Code. For example, what if we heard that one student had forged the signatures of other students? Or that a student intended to harm their Jewish colleagues?

That is not where the evidence led, but it helps explain why the External Reviewer did not rule out certain sanctions at the outset.

Nevertheless, our process was not designed to be punitive. Instead, our restorative approach was intended to encourage and support people to participate in efforts to establish what happened and why, and to help chart a path forward based on individual and shared responsibility for what has happened and what needs to happen in future. This is consistent with Section 2 of the Code, which talks about the Code being educational and supportive, and ensuring accountability and fairness.

This was also consistent with the Code’s reference to “*an anti-oppression and trauma-informed approach to ensure that all community members are treated with empathy, dignity, and care.*”

These principles guided the team’s work. Other guiding principles included humility; independence; respect; transparency; and trust:

- **Humility.** The members of the External Review team have not personally experienced antisemitism, Islamophobia, anti-Palestinian racism, or other forms of racism, and we do not share the intersecting identities of many of the students who participated in the letter. Nonetheless, we have done our utmost to understand their experiences and perspectives, as well as those of other students and stakeholders with whom we met. Indeed, we were open to learning from everyone we met with, and we did learn from every single meeting held and submission received.⁷⁷

We have also done our best to admit our own missteps, and we have been willing to acknowledge and accept firm criticism about the process from students and stakeholders.

- **Independence:** It was important for the External Review to be independent from the University — and to be seen as independent. Mr. MacDonald would not have taken on the mandate otherwise. As stated in the Post-Town Hall Reference Guide (circulated to LASL students on January 31, 2024): “*I have extensive experience in making independent decisions and I will not be swayed by external pressures, whether it be the University, donors, the media, or the legal community.*”

⁷⁷ With particular thanks to the stakeholder student who shared a moving article on practicing humility: Lindsay Borrows, “*Dabaadendiziwin: Practices of Humility in a Multi-Juridical Legal Landscape*”, 2016 33-1 Windsor Yearbook on Access to Justice 149, 2016 CanLIIDocs 183, <https://canlii.ca/t/79d>.

- **Respect.** We respected the dignity of everyone who engaged with the External Review, and we hope that came through in our communications and meetings. It was and remains important for us to show genuine care, kindness, and emotion.

In doing so, hopefully we demonstrated that the law does not have to be a mean-spirited profession.

- **Transparency.** We sought to be transparent about the External Review process to the greatest extent possible while respecting confidentiality. This involved circulating the Frequently Asked Questions; revising the FAQs to incorporate additional questions; providing the Guidance Document to respondent students so they would know what to expect from their meetings; holding the Town Hall; preparing the Post-Town Hall Reference Guide; sending email updates to LASL students; and promptly answering correspondence from students and their representatives.
- **Trust.** It was very important to build trust with LASL students, especially after the suspicion that greeted the first steps of the process. We believe we were partially successful on this front. The fact that only one anonymous signatory was willing to meet with us proves that some distrust remained.

5.3.6 Phase One – Meetings with Respondent Students

Phase one of the External Review process involved confidential meetings with respondent students.⁷⁸ This phase lasted from mid-January until the end of February.

These meetings were an opportunity for respondent students to explain and contextualize their participation in the letter, using the Guidance Document circulated on January 17, 2024 as a jumping-off point.

It was strongly encouraged, but not mandatory, for students to meet with the External Review.

Initially, the External Reviewer planned to hold all meetings in person, at Jorgensen Hall on the TMU campus (with Ms. Mack and Ms. Taylor attending virtually), in the last two weeks of January. The External Reviewer was able to hold several in-person meetings. However, given the logistics of winter travel, multiple last-minute requests to reschedule, and the fact that many students expressed a preference for virtual meetings, the team switched to virtual meetings.

⁷⁸ There is some overlap between Phase 1 and Phase 2, simply because of the availability of meeting participants.



The External Reviewer would start with opening remarks about what to expect, and to set the tone. He would assure students that there were no trick questions, and that they could choose not to answer any question that made them uncomfortable.

The meetings generally lasted for an hour but sometimes spilled over.

The meetings were often emotional. Students — many of whom came prepared with detailed submissions — were incredibly open and vulnerable about their backgrounds, why they chose Lincoln Alexander, their reasons for participating in the letter, and how the backlash affected them and their relationships. Many also shared their ideas for recommendations.

In total, the External Review team met with 34 of the 38 named students. Another named student asked to make written submissions instead, and the External Reviewer granted this request. Only three of the 38 named students did not participate at all (two of them had initially requested ADR but did not engage any further once these requests were answered). These three students did not respond to our follow-up invitations to meet.

Many students had counsel, all of whom provided excellent submissions to the External Review. Other students brought support persons to their meetings. These support persons ranged from classmates, to LASL faculty, to family members. We are exceptionally thankful for all of the lawyers and supporters for helping the students through this process.

5.3.7 Phase Two – Meetings with Stakeholders

Overview

Phase two involved meeting with stakeholders. Most stakeholder meetings were held throughout March and into April, although some were held earlier for scheduling reasons.

The scope of who was considered a “stakeholder” was determined quite organically. Some reached out to us, while we reached out to others. We also thank TMU for coordinating our meetings with the Jewish Law Students’ Association; the Muslim Law Students’ Association; Amira Elghawaby, Canada’s Special Representative on Combatting Islamophobia; and Deborah Lyons, Canada’s Special Envoy on Preserving Holocaust Remembrance and Combatting Antisemitism.

Overall, the stakeholders painted a balanced and comprehensive picture of how the letter impacted the Lincoln Alexander community, and the broader community. We have taken measures to honour certain stakeholders’ requests that they be allowed to fact-check their quotes. However, we have not provided them with advance copies of the report.

To ensure procedural fairness, the External Reviewer did not accept stakeholder submissions on potential outcomes for students who participated in the letter.

The four main categories of stakeholders are described below.

Student Stakeholders

We fielded many inquiries from students who were not involved with the letter but wanted to participate in the process. Our Post-Town Hall Reference Guide advised that the External Reviewer was meeting with respondent students first. Once that phase wrapped up, he would consider how best to bring in other student voices.

On February 29, 2024, the External Reviewer sent an update email to LASL students, offering them the opportunity to engage with the process to the extent they wished to share their perspectives. The External Reviewer was particularly interested in students' suggestions for helping the LASL community move forward.

In March 2024, our team held virtual meetings with 15 Lincoln Alexander student stakeholders, and received written submissions from 9 other students. Their names will remain confidential.

Faculty Stakeholders

The External Reviewer heard from several law school faculty members early on in the process. Their initial requests to meet were taken under advisement, pending the completion of meetings with respondent students. We subsequently held meetings with these LASL faculty members.

The External Reviewer spoke in person at a LASL faculty meeting on January 11, 2024,⁷⁹ to update the faculty on the process thus far. On March 7, 2024, the External Reviewer attended a faculty meeting by Zoom. Faculty were then invited to request a meeting, or provide written submissions, if they had not already done so.

The External Review team ultimately met with:

- Prof. Ed Béchar-Torres, Assistant Professor;
- Dr. Chile Eboe-Osui, Distinguished International Jurist and former President of the International Criminal Court, who also provided supporting materials on international law; and
- Prof. Joshua Sealy-Harrington, Assistant Professor, who also provided a written commentary.

The team received written submissions from another faculty member who requested confidentiality.

⁷⁹ Here “faculty” refers to members of the Toronto Metropolitan Faculty Association.



We thank these stakeholders for sharing their expertise and insights, and for the helpful factual context and relevant legal authorities they provided.

An overwhelming theme from our meetings with faculty members was their care and compassion for the students of LASL. We are also indebted to the two faculty members, Prof. Sealy-Harrington and Prof. Hilary Evans Cameron, who acted as support persons for some of the respondent students, which exemplified this care and compassion.

Other Internal Stakeholders

This category of stakeholders included LASL student associations, LASL staff members, and one TMU-wide group:

- TMU Executive Director who requested confidentiality
- Salima Fakirani, Director, Student Engagement and Experience
- Khalid Janmohamed, Director, Legal Clinic Programs at LASL
- Jewish Faculty Network (JFN-TMU), represented by Nadya Burton; Joshua Price; Shiri Pasternak; Naomi Hamer; Rachel Berman, and Alan Sears (Mr. Sears was not able to attend our meeting)
- Sharmaine McKenzie, Executive Director, Strategic Initiatives and Operations
- Prof. Sarah Morgenthau, Adjunct Professor at LASL
- Pratik Nair, Manager, Health & Wellness and Academic Success at LASL

External Stakeholders

We met with the following external stakeholders:

- Arab Canadian Lawyers Association (ACLA)
- Canadian Muslim Lawyers Association (CMLA)
- Centre for Israel and Jewish Affairs (CIJA), represented by Bonnie Goldberg, Scott Goldstein, and Adam Wagman
- Amira Elghawaby, Canada's Special Representative on Combatting Islamophobia
- Independent Jewish Voices Canada, represented by Judy Rebick, Jillian Rogin, and Sheryl Nestel
- The Hon. Harry LaForme and Mark Sandler



- Deborah Lyons, Canada’s Special Envoy on Preserving Holocaust Remembrance and Combatting Antisemitism

We received written correspondence from the British Columbia Civil Liberties Association (BCCLA), which was provided through Prof. Sealy-Harrington.

We requested meetings or written submissions from the Law Society of Ontario (LSO), the Ontario Ministry of the Attorney General (MAG), and the Ontario Bar Association (OBA). The LSO and OBA declined these invitations. MAG provided a written statement that is reproduced later in the report.

Parallel Initiatives

The letter generated at least two other forward-looking efforts parallel to, and independent from, the External Review.

In November, a Student Initiatives Working Group was formed within LASL. This is a collective of LASL students and staff members that came together after the letter to provide recommendations to the Dean.

As well, Dr. Tanya De Mello, TMU Vice-President, Equity and Community Inclusion, has been leading several initiatives to bring students together, including a series of Listening Circles for LASL students. These Listening Circles were held in February and March 2024, and facilitated by Raja Khouri and Jeffrey Wilkinson (authors of *The Wall Between: What Jews and Palestinians Don’t Want to Know About Each Other*).



Part 6.0

FREEDOM OF EXPRESSION FRAMEWORK



6.0 FREEDOM OF EXPRESSION FRAMEWORK

This part of the report summarizes the policy and legal framework for the External Review, focusing on the overarching concept of freedom of expression. It begins with the Student Code of Non-academic Conduct, moves on to TMU's Statement on Freedom of Speech, and then considers the *Canadian Charter of Right and Freedoms*.

Next, the report examines the unique role of the university as a site of expression. It concludes by addressing a difficult question: whether and how antisemitism should be defined for purposes of the External Review.

Admittedly, a treatise could be written on many of these topics. The narrower mandate of the External Review required a more concise approach but one that is still intended to do justice to these important laws, policies, and principles.

6.1 Student Code of Non-academic Conduct

To refresh, TMU delegated the decision-making authority to the External Reviewer to determine whether the TMU students who participated in the open letter may have breached the Code and, if so, to determine what outcomes under the Code might be appropriate.

Freedom of expression is one of the “Values and Principles” highlighted in Section 5 of the Code:

5.5 Freedom of Expression

The University recognizes students' right to express themselves and engage in respectful debate and discussion. Students have the right to participate in peaceful and lawful assemblies and demonstrations without harassment, disruption, or acts of violence in accordance with the University's Statement on Freedom of Speech.

The Code works in tandem with the Discrimination and Harassment Prevention Policy, which includes freedom of expression as one of its Guiding Principles:

Freedom of expression is the cornerstone of education at the University, but like other Charter rights, it is not an absolute right.

The “spirit” of the TMU Statement of Student Rights and Responsibilities⁸⁰ also applies to the Code.⁸¹ According to this Statement, TMU students have the right to “enjoy all rights and freedoms recognized by law” in “a learning environment that, while safeguarding dissent, is free from interference and disruption.” Students also have the responsibility to “treat all members of the community, including faculty, staff and fellow students, with respect.”

6.2 Statement on Freedom of Speech

TMU’s free speech policies⁸² include the Code; the Discrimination and Harassment Prevention Policy,⁸³ and the 2010 Senate Statement on Freedom of Speech. The Statement on Freedom of Speech is a fundamental guidepost for this External Review, and is set out in full here:

*In the toil of thinking; in the serenity of books; in the messages of prophets, the songs of poets and the wisdom of interpreters; in discoveries of continents of truth whose margins we may see; we delight in free minds and in their thinking.**

[TMU] embraces unequivocally the free exchange of ideas and the ideal of intellectual engagement within a culture of mutual respect. It is a powerful ideal that encompasses every dimension of the University. Everyone who is part of the University, as well as guests and visitors, has a role to play in this shared enterprise. This responsibility extends to both proponents and detractors of any idea or point of view. Recognizing and respecting diversity

⁸⁰ Toronto Metropolitan University, Statement of Student Rights and Responsibilities (Approved at Senate April 1, 2003): <https://www.torontomu.ca/senate/documents/studentrights.pdf>.

⁸¹ Section 5.2 of the Code. See also Section 6: “*The Toronto Metropolitan University Statement of Student Rights and Responsibilities outlines that students are expected to strive to make the community safe and uphold an environment defined by mutual respect, equity, civility, dignity, and inclusivity.*”

⁸² Toronto Metropolitan University, Ryerson University Senate, Statement on Freedom of Speech (May 4, 2010): https://www.torontomu.ca/content/dam/senate/documents/Statement_on_Freedom_of_Speech_May_04_2010.pdf.

⁸³ TMU’s free speech policies also include the Bookable Space Policy, the Workplace Civility and Respect Policy, and the Sexual Violence Policy, none of which were at issue in this External Review. See generally the Toronto Metropolitan University, Freedom of Speech Policies: <https://www.torontomu.ca/freedom-of-speech/>.

See also Toronto Metropolitan University, *Free Speech Annual Report 2023*: [https://www.torontomu.ca/content/dam/freedom-of-speech/Free%20Speech%20Annual%20Report%202023%20final%20\(1\).pdf](https://www.torontomu.ca/content/dam/freedom-of-speech/Free%20Speech%20Annual%20Report%202023%20final%20(1).pdf).

of people, thought and expression are essential and an integral part of the ideal.

*In the majesty of the moral order; in the faith that right will triumph; in the courage given us when we ally ourselves to truth in any form; in the privilege of being co-workers in good causes; we celebrate the unseen goals we share and serve.**

In order to achieve and sustain [TMU]’s ideal, members of its community must have freedom of thought and expression, freedom from harassment or discrimination and the freedom to consider, inquire, and write or comment about any topic without concern for widely held or prescribed opinions. This right to freedom of thought and expression inevitably includes the right to criticize aspects of society in general and the University itself.

[TMU] does not avoid controversies, difficult ideas, or disagreements over deeply held views. When such disagreements arise within the University or within a broader social context, the University’s primary responsibility is to protect free speech within a culture of mutual respect. The right to freedom of speech comes with the responsibility to exercise that right in an atmosphere free of intimidation and in an environment that supports the free speech rights of those with opposing views.

While [TMU] is committed to freedom of thought and the free exchange of ideas, it is also recognized that there are limits to the right of free speech that are recognized in the Charter of Rights and Freedoms. The University may act when speech on campus is used in a way that is itself unlawful or prevents the lawful exercise of free speech by others.

*Let us build a world safe from war and oppression, free and satisfying, one that ultimately furnishes answers for us all.**

**Ryerson Invocation, 1990*

TMU, like other “publicly-assisted” colleges and universities in Ontario, is required to “develop and publicly post its own free speech policy” and to submit annual free speech reports to the Higher Education Quality Council of Ontario, a provincial government agency.



This is pursuant to Ontario’s August 30, 2018 directive on “Upholding Free Speech on Ontario’s University and College Campuses”⁸⁴ (Directive):

The Ministry of Training, Colleges and Universities requires every publicly-assisted college and university to develop and publicly post its own free speech policy by January 1, 2019 that meets a minimum standard specified by the government.

The Directive sets “a minimum standard” for each university’s free speech policy. The Directive also provides for monitoring and compliance, and a complaints process.

TMU’s most recent report is the *Free Speech Annual Report 2023*,⁸⁵ which states:

TMU has long been committed to freedom of expression, including free speech. As a vital and dynamic university, TMU welcomes the opportunity to talk freely and openly. It is important that at a university, controversial subjects are discussed, attitudes are challenged, and that alternatives are suggested and considered. Everyone who is part of the university, as well as guests and visitors, have a role to play in this shared enterprise.

In summarizing the Code, the Report says:

This policy specifically protects free speech and the right to protest but allows the university to issue sanctions to students who engage in behaviour that infringes on the free-speech rights of others.

6.3 Charter Issues and Principles

There is an emerging consensus⁸⁶ that the Directive may render the *Canadian Charter of Rights and Freedoms* applicable to university activities that relate to freedom of expression.⁸⁷ Because of the Directive, processes under the Code that relate to freedom

⁸⁴ Ontario, Office of the Premier, “Upholding Free Speech on Ontario’s University and College Campuses” (August 30, 2018): <https://news.ontario.ca/en/backgrounder/49950/upholding-free-speech-on-ontarios-university-and-college-campuses>.

⁸⁵ Toronto Metropolitan University, *Free Speech Annual Report 2023*: [https://www.torontomu.ca/content/dam/freedom-of-speech/Free%20Speech%20Annual%20Report%202023%20final%20\(1\).pdf](https://www.torontomu.ca/content/dam/freedom-of-speech/Free%20Speech%20Annual%20Report%202023%20final%20(1).pdf).

⁸⁶ See generally the “Campus Speech Issue” of *Constitutional Forum*, Vol. 29, No. 2 (2020) which was devoted to the Directive: https://journals.library.ualberta.ca/constitutional_forum/index.php/constitutional_forum/issue/view/1950.

⁸⁷ See e.g. Alison Braley-Rattai & Kate Bezanson, “Un-Chartered Waters: Ontario’s Campus Speech Directive and the Intersections of Academic Freedom, Expressive Freedom, and Institutional Autonomy”, *Constitutional Forum*, Vol. 29: No. 2 (2020) at 68 and 71:

of expression and its limits are likely “subject to *Charter* scrutiny.”⁸⁸ As such, the *Charter* rights of the respondent students, particularly their *Charter*-protected right to freedom of expression, must be considered.⁸⁹

Even without the Directive, the *Charter* would likely still be engaged in this External Review, given that TMU’s Statement on Freedom of Speech incorporates by reference the “limits to the right of free speech that are recognized in the *Charter of Rights and Freedoms*.” Similarly, the Discrimination and Harassment Prevention Policy refers to freedom of expression as a *Charter* right.⁹⁰

Before considering the limits recognized in the *Charter*, it must be emphasized that the protection for freedom of expression in section 2(b) of the *Charter* is very broad. Section 2(b) guarantees the “freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication.”⁹¹

The Supreme Court of Canada has held that an “activity by which one conveys or attempts to convey meaning will prima facie be protected by s. 2(b).”⁹² This is a content-neutral approach,⁹³ meaning “that activities cannot be excluded from the scope of the guaranteed freedom on the basis of the content or meaning being conveyed.”⁹⁴

https://journals.library.ualberta.ca/constitutional_forum/index.php/constitutional_forum/article/view/29400; James L. Turk, “Universities, the Charter, Doug Ford, and Campus Free Speech”, *Constitutional Forum*, Vol. 29: No. 2 (2020) at 31, 38, and 42:

https://journals.library.ualberta.ca/constitutional_forum/index.php/constitutional_forum/article/view/29398.

⁸⁸ See e.g. *BC Civil Liberties Association v University of Victoria*, 2016 BCCA 162 at paras 32-33, leave to appeal to SCC refused, 2016 CanLII 82919 (SCC); *Zaki v University of Manitoba*, 2021 MBQB 178 at para 154.

⁸⁹ See also Jamie Cameron, “Giving and Taking Offence: Civility, Respect, and Academic Freedom” in James L. Turk, ed, *Academic Freedom in Conflict: The Struggle Over Free Speech Rights in the University* (Toronto: James Lorimer & Company Ltd., 2014) at 287.

⁹⁰ Toronto Metropolitan University, *Discrimination and Harassment Prevention Policy*, Guiding Principle #4: <https://www.torontomu.ca/policies/policy-list/dhp-policy/>.

⁹¹ For a more comprehensive analysis of the *Charter* right to freedom of expression, see Hogg & Wright, *Constitutional Law of Canada*, 5th ed Supp, Volume 2 (Toronto: Thomson Reuters, current to Rel. 1, 7/2023), chapter 43.

⁹² *Greater Vancouver Transportation Authority v Canadian Federation of Students — British Columbia Component*, 2009 SCC 31 at para 27.

⁹³ Hogg & Wright, *Constitutional Law of Canada*, 5th ed Supp, Volume 2 (Toronto: Thomson Reuters, current to Rel. 1, 7/2023) at §43:11 (citing *R v Keegstra*, [1990] 3 SCR 697 at 828).

⁹⁴ *R v Butler*, [1992] 1 SCR 452 at 488.

Put differently, “the content of a statement cannot deprive it of the protection accorded by s. 2(b), no matter how offensive it may be.”⁹⁵

The expansive protection for freedom of expression in TMU’s freedom of speech policies, and in Canadian law more broadly, has informed the External Reviewer’s decision-making as to whether the Code was breached in the first place. In other words, the External Reviewer has given “due regard to the importance of the expressive rights at issue” in the decision-making process.⁹⁶ The External Reviewer’s individual decisions, which are summarized below, are intended to reflect a “proportionate balancing” of the *Charter* right to freedom of expression in light of the purposes of the Code.⁹⁷

6.4 The University as a Site of Free Expression

James L. Turk, the Director of the Centre for Free Expression at TMU, has written that:⁹⁸

The university’s raison d’être is premised on free expression. Universities cannot fulfill their missions of creating knowledge and educating students without it.

This was a prominent theme for the External Review. Many students and stakeholders emphasized the unique and important role that universities play in society, as a site for testing ideas, having critical discussions, protecting dissenting views, and hosting protests.⁹⁹

⁹⁵ *R v Keegstra*, [1990] 3 SCR 697 at 828, McLachlin J (as she then was) dissenting but not on this point (cited in *R v Butler*, [1992] 1 SCR 452 at 488). See also *Ward v Quebec (Commission des droits de la personne et des droits de la jeunesse)*, 2021 SCC 43 at para 60; *Saskatchewan (Human Rights Commission) v Whatcott*, 2013 SCC 11 at para 50.

Content neutrality also means that the *Charter* “protects the expression of both truths and falsehoods”: *Canada (Attorney General) v JTI-Macdonald Corp.*, 2007 SCC 30 at para 60.

⁹⁶ *Doré v Barreau du Québec*, 2012 SCC 12 at para 66.

⁹⁷ See e.g. *Commission scolaire francophone des Territoires du Nord-Ouest v. Northwest Territories (Education, Culture and Employment)*, 2023 SCC 31 at para 67. See also *Groia v Law Society of Upper Canada*, 2018 SCC 27 at paras 111-121.

⁹⁸ James L. Turk, “Universities, the Charter, Doug Ford, and Campus Free Speech”, *Constitutional Forum*, Vol. 29: No. 2 (2020) at 33: https://journals.library.ualberta.ca/constitutional_forum/index.php/constitutional_forum/article/view/29398. See also 42: “there is no institution for which freedom of expression is more fundamental to its societal mission than the university.” And see *UAlberta Pro-Life v Governors of the University of Alberta*, 2020 ABCA 1 at para 110, Watson JA: “enlightenment is, arguably, the *raison d’être* of a University.”

⁹⁹ See e.g. James L. Turk, “Universities, the Charter, Doug Ford, and Campus Free Speech”, *Constitutional Forum*, Vol. 29: No. 2 (2020):

We are particularly grateful to Dr. Turk for meeting with us, and to Prof. Joshua Sealy-Harrington, who met with us and also provided very helpful written submissions and authorities on these issues.

TMU has traditionally embraced free expression as a fundamental value of the university. The Statement on Freedom of Speech confirms that TMU “*does not avoid controversies, difficult ideas, or disagreements over deeply held views*” while recognizing that the “*right to freedom of speech comes with the responsibility to exercise that right in an atmosphere free of intimidation and in an environment that supports the free speech rights of those with opposing views.*”

President Mohamed Lachemi echoed these sentiments in a 2016 statement:¹⁰⁰

I consider it an incredibly valuable attribute of our university that controversial subjects are discussed publicly, attitudes are challenged, and alternatives are suggested and considered. Ryerson provides an important service to society when it engages critical issues in this way.

Sheldon Levy, President Lachemi’s predecessor, expressed a similar view in an article from 2018 entitled “Why I defended freedom of speech on campus”.¹⁰¹

On many occasions, I gave my administrator’s green light to events featuring speakers whose ideas I personally loathed. And I did so because freedom of speech is a core defining value for any free society. Democracy cannot function without it. And it is the role of the university to be the place where free speech is tested, in an atmosphere of serious discussion, with robust argumentation and counter-examination.

https://journals.library.ualberta.ca/constitutional_forum/index.php/constitutional_forum/article/view/29398.

¹⁰⁰ Toronto Metropolitan University, TorontoMet Today, “A commitment to our core values” (December 2, 2016): <https://www.torontomu.ca/news-events/news/2016/12/a-commitment-to-our-core-values/>.

¹⁰¹ Sheldon Levy, “Why I defended freedom of speech on campus”, *Toronto Star* (January 26, 2018): https://www.thestar.com/opinion/contributors/why-i-defended-freedom-of-speech-on-campus/article_ca41ef28-7467-528e-8e59-9b167b513cf6.html. We thank Judy Rebick of Independent Jewish Voices Canada for bringing these comments to our attention.

The university’s role in protecting free speech is even more essential in times of crisis, when the limits of student expression may be tested.¹⁰² In this context, universities are supposed to:

- “*provid[e] students with the theoretical insights, robust analytic frameworks, historical context, and the space for discerning and well-informed debates*”;¹⁰³
- encourage students “*to ask big questions about justice and the future of humanity, and to pursue answers however disquieting to the powerful*”;¹⁰⁴
- enable students to express opinions even if controversial, and to debate each other’s opinions;¹⁰⁵ and
- help students work through their differences “*no matter how passionately they are expressed and no matter how impossible a just solution may seem*.”¹⁰⁶

These important objectives can be difficult to achieve in practice, particularly when the expression at issue relates to Israel-Palestine.

Multiple stakeholders submitted that there can sometimes be *less* freedom for pro-Palestinian expression – in other words, that campus expression of Palestinian solidarity receives disproportionate scrutiny. This is often referred to as the “Palestine exception”,

¹⁰² For more on this general topic, watch Harvard Kennedy School Carr Center for Human Rights Policy, “Israel and Gaza and Its Repercussions on American Campuses: A Conversation with Peter Beinart” moderated by Mathias Risse (January 25, 2024), available on YouTube:

<https://youtu.be/9RtHNFcjKRM?si=hq9xmnvpYRmX-1LM>.

¹⁰³ Independent Jewish Voices Toronto & York Region, [Facebook post](#) (November 9, 2023).

¹⁰⁴ Paula Chakravarty & Vasuki Nesiah, “Is This the End of Academic Freedom?”, *New York Times* (April 5, 2024).

¹⁰⁵ Independent Jewish Voices Toronto & York Region, [Facebook post](#) from November 9, 2023 (linked in correspondence provided to the External Review). See also James L. Turk, Mark Gabbert & Penni Stewart, “Open Letter to Canadian University and College Presidents”, Centre for Free Expression Blog (December 12, 2023): <https://cfe.torontomu.ca/blog/2023/12/open-letter-canadian-university-and-college-presidents>.

¹⁰⁶ James L. Turk, Mark Gabbert & Penni Stewart, “Open Letter to Canadian University and College Presidents”, Centre for Free Expression Blog (December 12, 2023): <https://cfe.torontomu.ca/blog/2023/12/open-letter-canadian-university-and-college-presidents>.

and is described as having a “chilling effect” on campus expression¹⁰⁷ and academic freedom.¹⁰⁸

As a legal concept, academic freedom is protected in the collective agreement between the University and the Faculty Association.¹⁰⁹ But as one of the University’s fundamental values, academic freedom extends beyond the collective agreement. According to TMU’s Academic Plan:¹¹⁰

*At the heart of what it means to be a university, academic freedom provides us with the liberty to think critically, explore and exchange new ideas, and evaluate and challenge norms and preconceptions. It is a cornerstone of knowledge creation. We unequivocally embrace freedom of thought and expression in support of teaching, learning and activity SRC [Scholarly, Research, Creative]. **Building a community where we can speak, write, critique and otherwise articulate ideas and perspectives provides a foundation for all that we do at TMU.** [emphasis added]*

¹⁰⁷ See e.g. Dania Majid for the Arab Canadian Lawyers Association, *Anti-Palestinian Racism: Naming, Framing and Manifestations* (April 2022) at 17-18:

Hearing Palestine Initiative at the University of Toronto, *From the River to the Sea: Palestine will be Free: A Primer on History, Context, and Legalities in Canada* (December 2023) at 5; Law and Political Economy (LPE) Project at Yale Law School, “A Call for Institutional Fairness on Palestine” (November 2023): <https://lpeproject.org/blog/a-call-for-institutional-fairness-on-palestine/>; and

Sheryl Nestel & Rowan Gaudet for Independent Jewish Voices Canada, *Unveiling the Chilly Climate: The Suppression of Speech on Palestine in Canada* (October 2022): https://www.ijvcanada.org/wp-content/uploads/2022/10/Unveiling-the-Chilly-Climate_Final-compressed.pdf.

¹⁰⁸ See e.g. Malaka Shwaikh & Rebecca Ruth Gould, “*The Palestine Exception to Academic Freedom: Intertwined Stories from the Frontlines of UK-Based Palestine Activism*” (2019) 42:4 *Biography* 752.

¹⁰⁹ Collective Agreement between the Board of Governors of Ryerson University and the Faculty Association: https://www.torontomu.ca/content/dam/faculty-affairs/rfa-collective-agreement/CA-2020-2023/TFA%20CA_2020%20to%202023_post%20reopener.pdf

See also the CAUT Policy Statement on Academic Freedom (approved May 1977 and reviewed February 2019): <https://www.caut.ca/about-us/caut-policy/lists/caut-policy-statements/policy-statement-on-academic-freedom>.

And see *Pridgen v University of Calgary*, 2012 ABCA 139 at paras 114-117, Paperny JA.

¹¹⁰ Toronto Metropolitan University, *Academic Plan 2020-2025*, “Our Values” (page 11): <https://www.torontomu.ca/content/dam/about/strategic-vision/tmu-academic-plan.pdf>.



In this way, the principle of academic freedom adds interpretive flavour to the legal protection for freedom of expression in the *Charter* and TMU’s Statement on Freedom of Speech, even when students may be engaging in “non-academic conduct” within the meaning of the Code.

6.5 Understanding Antisemitism

We received many questions and submissions regarding how antisemitism would be defined and understood for purposes of this External Review. Admittedly, this very sensitive and serious issue has posed difficulties, not least because our team members have not personally experienced antisemitism, and would not want to compound the traumatic impacts of antisemitism on Jewish people.

However, despite the real challenges of this issue, it was necessary to develop an understanding of antisemitism for purposes of the review.

There are at least four principled reasons for doing so.

First, the LASL administration’s statement of October 23 referred to the “*sentiments of Antisemitism*” in the letter, without defining antisemitism or explaining which aspects of the letter were perceived to be antisemitic. Some students and their representatives interpreted this part of the statement as presupposing a breach of the Code (although the External Reviewer has not taken it as such). If it was not antisemitic, then the administration misapplied that serious allegation.

Second, the issue of antisemitism has been considered at TMU, but we are not aware that the University has a formal definition that would directly apply in this External Review. For example, Section 6 of the Code refers to, but does not define, antisemitism.

TMU’s Office of the Vice-President, Equity and Community Inclusion (OVPECI) does have a helpful webpage on Antisemitism, which states:¹¹¹

Antisemitism is the manifestation and expression of discrimination against Jewish people. Antisemitism can take many forms, ranging from individual acts of discrimination, spreading rumours, stereotypes and misconceptions, physical violence, vandalism and hatred, to more organized and systematic efforts to destroy entire communities and genocide.

¹¹¹ Toronto Metropolitan University, Office of the Vice-President, Equity and Community Inclusion, “Antisemitism”: <https://www.torontomu.ca/equity/resources/discourse-docs/antisemitism/>.

The webpage continues:¹¹²

The term genocide was coined by a Jewish judge named Raphael Lemkin in 1944 in his book Axis Rule in Occupied Europe. Lemkin took part in writing and pushing forward the Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention) following the Holocaust. On December 9, 1948 the United Nations approved the Genocide Convention, an agreement that prevents and punishes perpetrators of genocide.

The Ontario Human Rights Commission defines antisemitism as the “latent or overt hostility or hatred directed towards, or discrimination against individual Jews or the Jewish people for reasons connected to their religion, ethnicity, and their cultural, historical, intellectual and religious heritage” (Canadian Race Relations Foundation, 2013).

Along similar lines, the 2010 *Final Report of the Taskforce on Anti-Racism at Ryerson* stated that the term antisemitism “is used to describe expressions and acts of hatred and hostility towards Jews and has the effect of harming the reputation, rights and well-being of Jews.”¹¹³

Third, the meaning of antisemitism is part of the broader legal context, as the federal government¹¹⁴ and the provincial government of Ontario¹¹⁵ have adopted definitions of antisemitism. In particular, they have adopted the non-binding working definition of the International Holocaust Remembrance Alliance (commonly referred to as the “IHRA definition”).

¹¹² Toronto Metropolitan University, Office of the Vice-President, Equity and Community Inclusion, “Antisemitism”: <https://www.torontomu.ca/equity/resources/discourse-docs/antisemitism/>.

¹¹³ Eileen Antone & Grace-Edward Galabuzi (Co-chairs) et al, *Final Report of the Taskforce on Anti-Racism at Ryerson* (January 2010) at 8: https://www.torontomu.ca/content/dam/confronting-anti-black-racism/pdfs/final-report-of-the-taskforce-on-anti-racism-at-ryerson-january-2010_FINAL-s.pdf.

¹¹⁴ Government of Canada, “[Preserving Holocaust remembrance and combatting antisemitism](#)” (modified April 8, 2024). See also Government of Canada, *Building a Foundation for Change: Canada’s Anti-Racism Strategy 2019-2022*: <https://www.canada.ca/en/canadian-heritage/campaigns/anti-racism-engagement/anti-racism-strategy.html>

¹¹⁵ Ontario formally adopted the IHRA working definition through Order in Council 1450/2020 (October 26, 2020): <https://www.ontario.ca/orders-in-council/oc-14502020>. See also *Building a Stronger and More Inclusive Ontario: Ontario’s Anti-Racism Strategic Plan*: <https://www.ontario.ca/page/building-stronger-and-more-inclusive-ontario-ontarios-anti-racism-strategic-plan#section-6>.

Finally, wide-ranging submissions were received from the respondent students, and stakeholders, regarding the meaning of antisemitism and the LASL administration’s characterization of the letter as antisemitic. It would do a disservice to all of these submissions if our report declined to engage with the issue.

Unsurprisingly, the respondent students felt the need to defend themselves against the particular stigma of this term.

One lawyer encouraged the External Review not to define antisemitism, while multiple stakeholders made submissions for and against particular definitions of antisemitism – most notably the IHRA definition:¹¹⁶

Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.

and the Jerusalem Declaration:¹¹⁷

Antisemitism is discrimination, prejudice, hostility or violence against Jews as Jews (or Jewish institutions as Jewish).

The predominant divergence between these two approaches appears to come from the examples and guidelines that accompany the IHRA’s working definition and the Jerusalem Declaration’s core definition, rather than the definitions themselves.¹¹⁸

In recent months, the Ontario legislature has been debating Bill 166, the *Strengthening Accountability and Student Supports Act, 2024*: https://www.ola.org/sites/default/files/node-files/bill/document/pdf/2024/2024-04/b166rep_e.pdf. If passed, this Act would require all publicly-assisted universities “to have policies and rules to address and combat racism and hate, including but not limited to anti-Indigenous racism, anti-Black racism, antisemitism and Islamophobia.”

¹¹⁶ International Holocaust Remembrance Alliance, “Working definition of antisemitism”: <https://holocaustremembrance.com/resources/working-definition-antisemitism>.

¹¹⁷ Jerusalem Declaration on Antisemitism: <https://jerusalemdeclaration.org/>.

¹¹⁸ The primary author of the IHRA definition, Kenneth Stern, has disavowed its application in the university context. See e.g. Eyal Press, “The Problem with Defining Antisemitism”, *The New Yorker* (March 13, 2024): <https://www.newyorker.com/news/persons-of-interest/the-problem-with-defining-antisemitism>.

In considering these issues and definitions, we have been particularly grateful for the submissions of CIJA; Independent Jewish Voices Canada; JFN-TMU; and the Hon. Harry LaForme and Mark Sandler. As well, we are indebted to the *Report of the University of Toronto Antisemitism Working Group*, which JFN-TMU recommended.¹¹⁹

For purposes of this External Review, we have adopted the understanding of antisemitism from the TMU OVPECI which, again, provides that:

Antisemitism is the manifestation and expression of discrimination against Jewish people. Antisemitism can take many forms, ranging from individual acts of discrimination, spreading rumours, stereotypes and misconceptions, physical violence, vandalism and hatred, to more organized and systematic efforts to destroy entire communities and genocide.

This understanding of antisemitism hopefully honours and reflects the commonality between the IHRA definition and the Jerusalem Declaration, which were the two principal definitions cited by students and stakeholders during the External Review.

Furthermore, the External Reviewer:

- has not assumed that it is necessarily antisemitic to criticize the actions and policies of the Israeli government towards Palestinians,¹²⁰ and
- has not assumed that it is necessarily antisemitic to apply concepts from international law, like colonialism, genocide, and occupation,¹²¹ in discussions of and statements about the government of Israel.

¹¹⁹ Arthur Ripstein (Chair) et al, *Report of the University of Toronto Antisemitism Working Group* (December 2021): <https://people.utoronto.ca/wp-content/uploads/2023/02/Report-of-the-Antisemitism-Working-Group-1.pdf>.

¹²⁰ See e.g. Guideline 13 to the Jerusalem Declaration on Antisemitism: <https://jerusalemdeclaration.org/>. See also Jewish Faculty Network, “Jewish Faculty Against IHRA” (Spring 2021): <https://jewishfaculty.ca/jewish-faculty-against-the-ihra-defn/>.

¹²¹ See e.g. Alex Neve et al, “Palestinian rights advocacy and international law”, *Moving Rights Along* (December 2023): <https://www.alexneve.ca/blog/palestinian-rights-advocacy-international-law>.

Part 7.0

PRELIMINARY OBJECTIONS & FINDINGS

7.0 PRELIMINARY OBJECTIONS AND FINDINGS

This part of the report addresses two common sets of preliminary objections raised by students and their representatives:

- that the University’s complaint under the Code contained insufficient particulars to proceed; and
- that the complaint itself, and/or the External Review process itself, contravened the Ontario *Human Rights Code*¹²² or the *Canadian Charter of Rights and Freedoms*.¹²³

7.1 Alleged Lack of Particulars

Many students and their counsel raised informal concerns and formal objections regarding the alleged lack of particulars in the University’s complaint, and the impact of this alleged deficiency on the External Review process. The External Review welcomed and received extensive submissions on this point.

A student’s right to know the allegations against them is confirmed in Section 5.12 of the Code, which frames “Procedural Fairness” as one of the Code’s Values and Principles:

The University has a duty to be fair in the application of the processes and procedures at each stage of the Complaint resolution process under the Code. This includes the right to know the allegations, the opportunity to respond to those allegations, the right to a fair and impartial decision maker, and the right to a decision with reasons.

The duty to be fair is context-specific, and the University reserves the right to adjust the process to ensure procedural fairness in accordance with the facts of the individual case with notice to the complainant and the respondent.

Section 1.2 of the Procedures to the Code sets out the “Required Information in a Complaint”:

Complaints are to be submitted to the Student Conduct Office and should include:

- *the complainant’s name and contact information*

¹²² *Human Rights Code*, RSO 1990, c H.19.

¹²³ *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.

- *a description of the alleged breach of community standards, including location and time*
- *any witnesses and provide their contact information*
- *supporting documentation*

The University's letter made clear that the University was the complainant, and included contact information; alleged that the letter of October 20, 2023 may have breached the community standards in the Code; and provided supporting documentation to the External Reviewer, as the designate of the Student Conduct Office (i.e. the Terms of Reference attached to the appointment letter and, by separate confidential correspondence, the names and TMU email addresses of the students who signed the letter by name).

The University's letter and the Terms of Reference were provided to all LASL students on December 1, 2023. This was to ensure that students who may have participated anonymously (or by initials) were aware of the University's complaint. (The University also made the Terms of Reference public on December 1, 2023.)

The External Reviewer has carefully considered the submissions that the University could have particularized which aspect(s) of Section 6 the students allegedly breached, given that Section 6 contains an open-ended set of expectations and a "non-exhaustive list of conduct that does not meet the University's community standards..."

Ultimately, however, the External Reviewer has concluded that the University's complaint, while sparse, provided sufficient particulars for the students to know what they were responding to.

Furthermore, all students who participated in the letter had the opportunity to respond to the University's allegations by meeting with and making submissions to the External Reviewer. It was evident in those meetings that the respondent students could discern the aspects of the letter that may have been of concern to the University.



7.2 Additional Procedural Concerns

The External Reviewer was invited by counsel for several students to consider whether the University's complaint, and the External Review itself, may have discriminated against the respondent students on grounds protected under the Ontario *Human Rights Code* and/or within TMU's Discrimination and Harassment Prevention Policy.¹²⁴ The External Reviewer is grateful for these submissions, including the cases cited,¹²⁵ but did not consider it necessary to resolve this issue.

Several students and their counsel also suggested that the *review itself* is contrary to the *Charter* – almost like a *Charter* challenge to the procedure. The External Reviewer was not persuaded to terminate the mandate on this interlocutory basis. This would have preemptively bypassed the decision-making process that TMU delegated to the External Reviewer under the Code.

¹²⁴ Toronto Metropolitan University, *Discrimination and Harassment Prevention Policy*, <https://www.torontomu.ca/policies/policy-list/dhp-policy/>.

¹²⁵ See e.g. *SAIA v Carleton University*, 2013 HRTO 112; *Hart v McMaster University*, 2021 HRTO 241.

Part 8.0

THE LETTER: CONTEXTUAL THEMES

8.0 THE LETTER: CONTEXTUAL THEMES

It would not have been possible to write this section, which is really the heart of our report, without the benefit of our meetings with 34 of the respondent students, who provided the context for their participation in the letter. These meetings comprised phase one of the External Review. Phase two involved stakeholder meetings, which are summarized in the next part of the report.

Facing potential sanctions, the respondent students had a right to be heard. It was also important to our process, and essential to our restorative approach, to meet with as many of them as possible, rather than assess the letter based only on the ‘words on the page’.

Many students told us they were grateful for the opportunity to share their side of the story. As one student told us, *“I wanted the opportunity to speak my voice. Throughout this entire time, I feel like I’ve had my own words taken away from me.”*

We believe that the students met with us in good faith, despite some of their misgivings about the External Review process. We accept what they told us as sincere, authentic, and credible. And we are grateful for the trust that we were able to build with these students, and for the vulnerability and candour they showed.

Overall, we believe that our meetings, as difficult and emotional as they were at times, were positive and mutually beneficial.

In meeting with the respondent students, some common themes arose.

These themes are not limited to the words of the letter. They also relate to the students’ lived experiences, including their personal backgrounds, their reasons for choosing Lincoln Alexander, and their career plans. The themes also cover the impact of the extreme backlash to the letter on the students who participated.

Generally, the respondent students’ positions with respect to the letter itself may be clustered into the following groups:

- those who read the letter, chose to sign it, and would sign it again;
- those who were careless and did not realize the full extent of what they were signing; and
- those who regret signing this particular letter, but do not regret their solidarity with the Palestinian people.

In fleshing out these themes and clusters, we have chosen to quote extensively from student submissions, without identifying the students by name.

8.1 Lived experiences

Many of the students are immigrants or first-generation Canadians who have lived or spent extended time in the Middle East and South Asia. Many are Muslim. A large number are racialized women, who have experienced intersecting oppression and marginalization. More than one student recounted experiencing or witnessing incidents of sexualized violence in their past.

These students shared some of the ways that their lived experiences have shaped their lives and values.

As one student put it, *“Being born in the Middle East, it’s not a choice for anyone to be political – it’s just bred in you because of the situation you’re in and the things that happen.”*

Another student offered the following insight into their worldview:

When you live in a society [where] Islamophobic tropes and narratives are pushed through media, through popular media, you feel helpless, you feel like every single day, every interaction is a fight – a fight to dismantle misconceptions and to be a representation for who Muslims are and what we represent.

A lot of these students had experienced trauma from various experiences in their lives. Some described living in active war zones, experiencing colonialism and oppression, and witnessing the oppression of others. Students expressed gratitude for the freedoms available to them in Canada, and for the sacrifices their families have made to provide them with opportunities that may not have been available to them elsewhere.

It was clear that these students have carried their life experiences with them throughout their lives, including into law school. Many conveyed that the privilege of living in Canada and attending law school carried with it a responsibility to speak up against oppression and injustices occurring in the world. One student described Canada as a *“breath of fresh air.”*

Another student, questioning why they had access to education, food, and freedoms when their relatives did not, reflected that *“it was almost like guilt turned into responsibility to combat these injustices and these inequities.”*

Several students cited their undergraduate studies, including in law and society, criminology, and political science, as having influenced the way they see the world and want to go about changing it. Many students spent time in the workforce before law school, including in the areas of human rights, climate justice, and disability justice; in government policy roles; and in front-line community services.

Students also discussed their past experience in community engagement, charitable work, social justice, and activism, including pro-Palestinian activism. For some, the Palestinian cause was new, while others had been attending protests for years. A few students explained that they had previously studied and written papers on the historical conflict between Israel and Palestine, and considered themselves well-versed on the issues.

A common theme that emerged from these discussions was the students' ability to draw parallels from their own backgrounds, and to see themselves reflected in the Palestinian experience. They commonly felt it a privilege, or even a responsibility, to speak up against the violence they have witnessed against the Palestinian people.

8.2 Reasons for choosing Lincoln Alexander

Students were drawn to LASL for all kinds of personal reasons.

Some students went to TMU for undergrad, enjoyed their experience, and decided to stay for law school. Others noted the convenient location which made it easier to commute. Others were attracted by the school's tech focus, and the IPC program. But the overwhelming reason for choosing Lincoln Alexander was because of its promise to do law differently, and its commitments to access to justice; equity, diversity, and inclusion (EDI); and social justice.

The school's focus on EDI and access to justice, in particular, was compelling to these students, many of whom had their own histories of advocacy. The school's foundational pillars of Equity, Diversity and Inclusion and Access to Justice were brought up in virtually every meeting we had with the respondent students.¹²⁶

Multiple students told us that they applied to Lincoln Alexander because of these pillars. As one student said, *"Lincoln was the first choice for me because of the way they advertised themselves ... I spoke about the pillars in detail in my personal statement, which was extremely personal. I spoke about the advocacy that I've done, the micro-aggressions and the racism I've faced, my [family's] own experience in this country... All these things that connect back to the pillars, and how advocacy has been such an important part of my life."*

Another student discussed their decision to attend Lincoln Alexander, saying, *"They promoted themselves as a school that was very progressive and open to academic discourse ... One of their pillars was supporting Indigenous rights I didn't see that from any other law school, which really informed my decision in going here."*

¹²⁶ Toronto Metropolitan University, Lincoln Alexander School of Law, "Our Pillars": <https://www.torontomu.ca/law/about/our-pillars/>.

Students compared LASL favourably to other law schools. Speaking to this, one said, “Some of the other law schools had a reputation for being places where you’re not really invited to engage with law critically”, whereas they believed LASL could be “a place for someone like me who was coming to law school with a desire to ask questions...’

In another student’s submissions, they wrote:

I chose Lincoln Alexander School of Law because it promised to produce a ‘different kind of lawyer,’ marketing itself as a place where things are “done differently” and a place to think about and combat social inequities in a progressive, supportive space. What a great fit! Where else would I go?!?! Or want to be?!?! I was excited to join this community for all of the reasons that it advertised – a ‘decolonial’ education, a focus on EDI initiatives, dedication to advancing critical race theory, and a place to share new perspectives, learn from one another, and bring these intentions forward into the legal community to create meaningful change. Likewise, this institution actively sought out students with radical perspectives and various lived experiences...

Another student suggested that the school had tasked its students with “carrying” the pillars. They viewed their participation in the letter as an attempt to do that.

Almost all of the respondent students felt immensely let down and hurt by the LASL administration’s responses to the conflict, as well as the school’s response to the student letter. We heard from many students that they considered the school’s positions to be contrary to its commitment to upholding the foundational pillars and “doing things differently.” One signatory accused the school of “false advertising”, going on to say, “the whole reason I went there is the reason I’ve been shunned.”

As another student put it, “I feel so let down by the school. They advertise themselves as a school that puts advocacy and EDI at the forefront. So far, it has felt like the EDI that they’re looking for is almost for the photo: [they’re] looking for students who are going to look different, and yet they’re not open to our experiences as diverse experience. When you’re looking for someone who looks different, you have to accept the experience that comes from them.”

One student told us:

...I wanted to be in a group of people who are similar to me, have similar life experiences – look like me, talk like me – with people you want to work with in future. Because of the letter and this experience, I can’t really, truly be myself in a way. In terms of forming connections, I don’t think I’ve done that, I don’t think I’m eager to do that anymore ... My mentality is just, go to class, do what I need to do, go home.



We observed from our meetings with the student signatories that the majority genuinely believed in the school’s mission, but sadly some now say that idealism has been shattered. Despite these reservations, some students were optimistic that the pillars could be reinvigorated in time.

8.3 The writing and dissemination of the letter

The letter was written by a very small group of students who were members of the Abolitionist Organizing Collective. We have learned that this is a non-hierarchical collective without formal leadership arrangements.

Some of the signatories, but certainly not all, had signed up to be members of the AOC at a society fair at the beginning of the school year. There was some dispute as to whether the AOC had completed the necessary registration steps to become an “official” LASL club for the 2023-2024 year, but it is clear that AOC members were active in the Fall. That said, only a few of the students we met with identified themselves as active members of the AOC.

We asked each student we met with whether they helped write the letter. Despite our best efforts, we were not able to conclusively determine the author(s). We also reached out to the AOC as a collective, by emailing their non-TMU email address with an offer to meet in a stakeholder capacity, but did not receive a response.

In several of our discussions with students and other stakeholders, we heard suspicions that at least one faculty member may have encouraged the students to draft this letter, or even participated in the drafting. Those suspicions were not borne out in the interviews we conducted.

As for the dissemination of the letter amongst LASL students, we heard (as described above) that the link to the letter was being circulated over the weekend of October 20-22, through several parallel group chats and social media platforms, including Discord, WhatsApp, and Instagram. Several students also had friends reach out to them directly to present the letter and ask for their support.

We understand that some of the personal messages accompanying the letter suggested that signing was a way to show solidarity with Palestine and let the school’s administration know how the students were feeling.

Some students submitted that the Google Form structure was confusing, and that they could only see pieces of the letter at a time. At least one student maintained that they could not see the list of demands contained within the letter, because of how it was set up.

A majority of students believed the letter was being sent privately to the law school administration and did not understand or appreciate that it might become public, despite it being titled an “open letter.” Only a few students recognized that the letter would be



publicly shared, and one of those students attributed that understanding to their previous involvement in social justice organizing.

We asked each student we met with whether they knew how the letter ultimately became public. The majority told us they did not know, and were reluctant to speculate. However, it was pointed out that the letter was circulated via multiple channels, some of which were not limited to law students (such as Instagram).

Several students referenced a Toronto Star article¹²⁷ where two students admitted to circulating the letter to members of the legal community. However, this was unlikely to have been the only avenue by which the letter was shared outside TMU.

8.4 Reasons for participating in the letter

There were distinct contextual factors that led the students to sign the letter.

Many students situated their decision to participate in the letter within a broader context of what was going on at the law school after October 7, 2023. Students were concerned about the administration's October 11 email, in addition to concerns about one administrator's social media activity indicating support for Israel. This context, many students told us, caused them to view the October 20 letter as a continuation of ongoing conversations with LASL administration.

Below we have grouped together some of the common themes that students raised as contributing to their decision to sign the letter. All told, it would be inaccurate to find, as some stakeholders suggested, that these students were "indoctrinated" or directly pressured into signing the letter.

a) Students wanted to show solidarity with Palestinians and support the call for a ceasefire

Virtually every student we met with expressed deep compassion for and solidarity with Palestinians. Some students became very emotional, to the point of tears, when speaking about the conflict. Several students related their feelings back to their own experiences, or those of their family members, living in violent circumstances.

Despite the serious situation the student respondents were facing because of the University's complaint and the External Review, many students acknowledged their own privilege in relation to what has been happening in Gaza.

¹²⁷ Rachel Mendleson, "Inside the crisis at TMU's law school", *Toronto Star* (January 13, 2024): https://www.thestar.com/news/investigations/inside-the-crisis-at-tmus-law-school-it-started-with-a-letter-of-support-for/article_9ca1edcc-b179-11ee-a665-b7861590be34.html.

Overwhelmingly, students said they felt compelled to speak out in support of Palestinians and call for a ceasefire because it was “*the right thing to do*”, in light of what many of the signatories viewed as a disproportionate response to the October 7 attacks by Israel. As one student put it, “*I wanted to stand by why I came to this school and what I believe in, and that’s doing what is right even when it’s hard.*”

Similarly, a student told us that, “*As a law student and a human being, speaking out against such injustices isn’t merely a moral imperative; it’s the only course of action.*”

Another student said: “*In signing the letter my goal was to advocate for freedom and the self-determination of the Palestinian people. I feel like my decision was informed by years of advocacy on this issue and in knowledge of the larger context in which the Hamas killings took place. And also I signed the letter because, despite multiple attempts to raise concerns about the school’s response to Israel’s assault on Gaza, I felt my voice had not been heard.*”

One student explained that they had interpreted the “core demand” of the letter as calling for a ceasefire, which resonated with them, and so they decided to sign. This student noted that the Canadian government has since echoed calls for a ceasefire. Other students told us that they felt the letter was aligned with international law and human rights authorities.

Despite the overwhelming backlash that has resulted from the letter, and certain regrets about how the letter was worded, most of the signatories did not regret their decision to call for a ceasefire or demonstrate solidarity with Palestinians. One student described their decision to sign as “*an informed decision ... based on research and lived experience in an oppressive country.*” A few students also related this decision back to their Muslim faith, which includes the obligation to stand up against injustices.

Some students described the letter as a form of protest.

Another student told us, “*I don’t regret any of my actions. Standing up for Palestine is not something that I did on a whim or without thinking or something that I wouldn’t do again ... I understand that a lot of people have different feelings about this, but what I have witnessed in my life can never make me silent about this...*”

Although some signatories had concerns about the letter before they signed (including concerns about its “aggressive” tone), they nevertheless decided to sign the letter because it had already gained traction amongst the student body.

One student emphasized that the letter “*wasn’t perfect, but we’re students, we should be allowed to make mistakes.*” Another characterized the letter as “*bold*”, but noted that the Academic Plan encourages students to be bold.

There was also a sense of urgency in how the letter was presented: “*There was no pressure, but the people who sent me the letter did say it was urgent because they wanted the letter to go to the administration ASAP.*”

Another student said that if they had known the letter would become public, they would have reached out to the authors and asked them to revise some of the language, such as to add information and context about the Hamas attacks, use clearer language, and condemn Hamas’s actions more forcefully.

One student recalled thinking about drafting a new letter that was “*less ambiguous*” and “*more specific*”, but decided against it as there were already dozens of signatures on the letter by that point. The student felt there was really no other choice at the time for bringing these concerns to the administration, other than signing this letter.

More than one student referred to the concept of “*strength in numbers.*” This related to their understanding that the letter would be a private communication to the administration, as part of an ongoing dialogue. This led some students to consider that they would add their name to the list of signatories, and could then explain their stance to the administration.

To that end, a number of students thought this letter, even if not ideal, was their opportunity to voice their concerns about what was happening in Gaza. One student felt that if they were to go to the administration independently to discuss their concerns, it may not have carried the same weight.

b) Students thought they were in dialogue with the administration

Most of the students contextualized their decision to sign by pointing out perceived shortcomings in the law school administration’s initial response to the October 7 attacks, and signalling their wish to engage in dialogue with the administration. The following events were particularly significant:

The October 11, 2023 email. This email, from Dean Young and Assistant Dean Balakrishna, included an invitation for students to discuss “*any issues of concern in the law school community*” with a member of administration. However, the email — sent at a time of heightened emotional sensitivity — was not universally well-received.

Many of the respondent students felt the letter was either “*neutral*” or one-sided, and wanted the administration to take a stronger stance, including to call for humanitarian aid and an immediate ceasefire. One student thought the email “*overlooked the broader historical context of oppression in Palestine*”, and another lamented that the letter did not address the “*massive power imbalance*” between Israel and Palestine. Yet another student described the email as a “*blanket statement that wasn’t addressing anything and that felt incredibly useless and inappropriate to me.*”

In keeping with the invitation in the October 11 email to raise “*issues of concern*”, a number of students wanted to talk to the administration about the ongoing conflict, and ask the members of administration to do more. As a student noted, the school had “*very specifically solicited our feedback.*”

Social media activity by an administrator. A number of students were concerned about the social media activity of one member of the LASL administration, which shared posts by the IDF. The activity was undertaken in the administrator’s personal capacity, but perceived as an extension of their professional role. Several students considered the IDF posts to be “*propaganda.*” Others found the posts to be insensitive, considering the person’s administrative role. One student felt that the person’s social media activity had called into question the school’s “*neutral*” position.

One student opined, “*I understand it’s [their] personal account, but it was made public and as an authority figure at the school, [a person] in charge of all students at the law school, I believe that there should be a level of responsibility that should be expected from them.*” Another student pointed out that there is a power imbalance between this person as a member of the administration and the student body, which places a heightened responsibility on administration members as representatives of the school.

An email “letter-writing campaign”: The above events prompted around 10 students to initiate an email “letter-writing campaign” to the administration. We heard from the law students that the administration did not respond to the letters sent to it as part of this campaign until a month later, and one student stated they did not receive a response at all.

The October 18 meeting: We heard from several students, including members of the Muslim Law Students’ Association, who had attended a meeting with some members of the administration on October 18, 2023. In addition to their issues with the administration’s stance, and the social media activity referenced above, the students also raised concerns about a recent rise in Islamophobia on and around campus. The letter of October 20 was commonly seen as an opportunity to follow up on the October 18 meeting.

c) Some students wanted to support their peers who asked them to sign

Some students signed the letter as a way to support friends or connect with their peers.

Many of the signatories were first-year law students who had been in law school for less than two months. One student described this time period: “*You’re very much trying to find your group of people that you connect with ... Particularly for me, that sense of belonging kind of stems from things you do, interactions you have with people ... When somebody says, ‘hey can you sign something’ when you’re looking for a way to connect, you sign it and don’t necessarily think of any repercussions.*”

Another student allowed a friend to sign their name to the document without taking the time to read it in full: *“One of my really close friends had approached me multiple times that week, and told me it was a letter to the Dean asking for ceasefire and for humanitarian aid to be brought to Gaza that was being held at the border. [They] asked if [they] could put my name on it. ... This person was very close to me, so I said OK. I then realized [they] hadn’t read it either before signing.”*

This student went on to say, *“It’s not in my nature to not look at what I’m signing; I got caught up in the emotional turmoil that’s going on at school, and in the world...”* It was a *“three-second decision... I could have read it if I wanted to, I just didn’t. I said yes. The rest is kind of history.”* This student clarified that they did not regret standing up for the cause, but they did regret putting their name on wording that was not their own.

d) Some students signed without reading carefully or closely

Multiple students informed us that they added their name to the letter hastily, without taking the time to read it closely and critically. Some of these students understood that the overall message behind the letter was to call for a ceasefire, and quickly signed on that basis.

As one student put it, *“I think it was a late night ... I skimmed it, I basically took it as what Israel is doing in the region has been problematic, and ... as a way to support Palestinian civilians.”* Another student understood that the letter was asking the administration to make a statement on the conflict, which this student wanted given that *“tensions were so high”* on campus at the time. A third student said, *“I didn’t go into very much detail in reading it before I signed it ... I understood the thesis of the letter and I agreed with the thesis.”*

In hindsight, several of these students told us that they were taken aback by the *“aggressive”* tone of the letter, and would have used different language if they had written the letter themselves.

A student suggested that if the letter had taken a more *“diplomatic”* approach asking the administration to call for a ceasefire, rather than setting out aggressive demands, it may have been better received.

More than one student told us they were embarrassed that they had signed something without reading it, especially as a law student. However, one student noted the prevalence of online petitions in recent years, and had no reason to expect that this particular letter would become a *“bigger deal.”*

Another student assumed that the authors of the letter had done their due diligence in preparing the letter. They went on to say, *“my mistake was I didn’t do my due diligence to ensure they received this from reputable sources or not.”*

One student recalled skimming the letter and deciding to sign, and after the fact going back to read the letter in more depth. This student then understood how some words used in the letter could have been misinterpreted. But at that point, there was no way to have their name removed.

On reflection, many of the students recognized problems with the letter after the fact. It was clear that these students have since reflected on the importance of careful language, and of the weight their signature holds as current law students and future members of the legal profession.

8.5 Intent vs Impact

On reflection, many of the students realized that the letter had a different impact than they had intended. These students acknowledged that Jewish colleagues, in particular, did feel threatened, offended, or unsafe as a result of the content in the letter. While this was not their intention, they came to recognize that the tone of the letter was harsh, and the delivery could have been more sensitive.

A few students also noted that the timing of the letter came closely on the heels of the October 7 Hamas attacks, at a time when the Jewish community was deeply hurt.

Several students emphasized that they thought the letter was intended to be private, and its public dissemination caused a bigger impact than they could have anticipated. Students also told us that they had underestimated how differently people can interpret the same set of words.

A number of students discussed the part of the letter that purported to support “*all forms of Palestinian resistance and efforts toward liberation.*” They were aware that some had interpreted this phrase as supporting Hamas’s terrorist attacks of October 7 rather than responding to Israel’s actions since October 7.

The signatories refuted this interpretation, and the majority of those we spoke with pointed to another section of the letter which characterized Hamas’s actions on October 7 as “*war crimes.*” They submitted that the letter, read in its entirety, voiced support only for *lawful* forms of Palestinian resistance, which could not include war crimes. Virtually every student we met with said they would not have signed a statement that they felt endorsed attacks on innocent civilians.

That said, many of the signatories acknowledged that the letter was not entirely clear in this regard, and could have been drafted with less ambiguous language.

The respondent students believed that criticizing the actions of the Israeli government, or supporting the cause of Palestinian resistance, was not antisemitic. These students were unanimous that they intended to criticize the actions of the Israeli government, and not to disparage Judaism or Jewish people. We heard many students acknowledge that antisemitism is real and pervasive. Others also reflected on the ways that the words might have landed for Jewish readers, who carry their own generational trauma from the Holocaust and historical antisemitism.

Many of the students we spoke to accepted responsibility for the impact their actions had, and expressed a desire to take steps to address or rectify the hurt caused.

One student told us that they had engaged in private conversations with a rabbi in order to better educate themselves and take steps to repair any damage or harm that they may have caused within the Jewish community. This student said *“I feel it’s important to acknowledge that. It is an inward process and I’m taking it seriously.”* Other students shared that they had private conversations with Jewish friends and community members about the letter, to try to reopen dialogue.

Other students were uncertain as to how they might go about restoring relationships and trust, in the face of the External Review and the University’s complaint against them. As one student put it, *“I don’t want to pretend like the letter wasn’t harmful ... Jewish students at school felt like there was no space for their grief, their rage. That’s heartbreaking for us, and how are we supposed to reach out, make people feel safe when everything about this process, when our only option for our own safety [and the] safety of one another was to try to be silent?”*

8.6 Particularly contested language in the letter

Quite a few respondent students went through the letter in detail, and explained their understanding of each line. We also received three annotated versions of the letter, which included line-by-line commentary.¹²⁸

Through these discussions, the signatories focused on several phrases in the letter in particular.

a) Title of the letter

One student began with the title of the letter, *“Lincoln Alexander School of Law’s unequivocal solidarity with Palestine and list of demands for the administration.”* That student explained that the title framed the content of the letter as being about solidarity with the Palestinian people, and not with Hamas.

¹²⁸ We have not reproduced these annotated copies in this report in the interests of protecting the privacy of the students involved.

b) Israel as a country

Many students spoke about the opening portion of the letter which stated, in part, “*Israel’ is not a country, it is the brand of a settler colony.*” They viewed this comment, and similar comments within the letter, as an application or extension of their learning on colonialism in the Canadian context, in courses on Aboriginal and Indigenous law – noting that the term “so-called Canada” is often used in these settings.

Several clarified that they did not dispute the fact that Israel is recognized as a state.

One student said, “*I’m not disputing that Israel is a recognized nation-state. I’m just, similar to my criticism of Canada and any other colonialist country that has benefited from displacing its Indigenous population, I think it’s important to recognize the origin of countries, and occupation, and how that impacts its people.*”

Some students cited statements by historical figures in Zionism who characterized their settlement in Palestine as a form of colonialism.¹²⁹

All that said, some students recognized that this portion of the letter could be misconstrued as being against the people of Israel, as opposed to Israel’s actions as a state.

c) Condemning those who only condemned Hamas’s recent war crimes

A number of students discussed the portion of the letter which read, “*We condemn any organization that only condemned Hamas’ recent war crimes killing 1300 Israelis, but has been and/or remains silent on the historic and ongoing war crimes committed by Israel.*”

Several students explained that this was intended to respond to the law school’s email of October 11, along with general narratives in mainstream media and public discourse that focused on the October 7 attacks but did not acknowledge the underlying historical context. These students wanted a new statement from LASL to reflect that history.

Many students also pointed to the fact that this portion of the letter refers to the October 7 attacks as “*war crimes*”, and submitted that the letter could not simultaneously endorse those attacks. As one student put it, “*the letter does not condone the attacks committed against Israeli civilians; we expressly acknowledge these killings as war crimes, but condemn only the position of remaining silent on the war crimes committed by Israel.*”

¹²⁹ See also Raja G. Khouri & Jeffrey J. Wilkinson, chapter 5: “Zionism and the Nakba” in *The Wall Between: What Jews and Palestinians Don’t Want to Know About Each Other* (Northampton, Massachusetts: Olive Branch Press, 2023).

d) “neither a war, nor a conflict”

One student made detailed submissions on why they believed the terms “war” and “conflict” were inaccurate. The student explained that a “war” implies two or more armies on relatively equal footing, and that the use of the word “conflict” serves to conceal the realities of the situation in Palestine. This student, like some others, felt that the terms “genocide” and “ethnic cleansing” were more appropriate descriptors.

e) “support all forms of Palestinian resistance”

This portion of the letter stating “*We stand in solidarity with Palestine and support all forms of Palestinian resistance and efforts toward liberation*” was the subject of much discussion by the respondent students (partially in response to the public outcry over this sentence in particular).

Virtually every signatory we met with said they do not support violence against civilians. Many pointed to the meaning of “resistance” under international law, which prohibits targeting innocent civilians.¹³⁰ One student explained, “*To me resistance does not refer to the killing of innocent people and civilians based on their religion, ethnicity, or any personal factor. Resistance can only happen in the face of an oppressor. It’s against an occupation, against violence, against an entire system. Resistance doesn’t refer to killing innocent Jewish people.*”

Students also noted that the letter referred to the October 7 attacks as “war crimes”, thereby expressly condemning those actions.

8.7 Application of learning about Indigenous issues

Many students drew parallels between the themes in the letter, and their studies on Aboriginal law, Indigenous issues, reconciliation, and colonialism. They explained that they were trying to apply these concepts to the conflict in Gaza. More than one signatory identified as Indigenous, and reflected on the connections they were able to draw.

A few students noted that land acknowledgments are common at TMU, which inherently relate to colonialism in Canada. We heard that LASL students have been taught that land acknowledgements were not meant to be performative, but should be actioned.

¹³⁰ As Dr. Chile Eboe-Osuji has written, “it is important to add that no theory of international law makes it permissible or defensible, in the name of resistance to alien occupation, to attack civilian citizens of the occupying power, especially those on their own territory.” See Chile Eboe-Osuji, “Calibrating Proportionality and Self-Defense in Gaza”, *Lawfare* (December 7, 2023):

<https://www.lawfaremedia.org/article/calibrating-proportionality-and-self-defense-in-gaza>.

See also Dr. Chile Eboe-Osuji, “International Law & The War in Gaza” [lecture slides that Dr. Eboe-Osuji provided to the External Review].

Others noted that the phrase “so-called Canada” is part of the discourse at LASL, and “so-called Israel” was seen as an extension of this rhetoric. One student questioned: “*why are we only allowed to talk about settler-colonialism in the Canadian context and not what’s happening in Israel?*”

A common view of the signatories was that they were doing what law students are taught to do: apply concepts from one situation to another. They argued that they did not have to be objectively correct in their comparison for their speech to be protected: “*The way that the letter was written, it’s taking a lot of our education, background, what Lincoln Alexander has taught us and just applying it to the current context in Palestine and Israel.*”

8.8 Other comments on tone and contents

Overall, the general consensus from the signatories seemed to be that the letter was vaguely worded at least in part, which opened the door to misinterpretation. In hindsight and upon reflection, students were able to identify shortcomings in the letter and contemplate how they could have gotten their message across in a less harmful manner. One student commented: “*I think it should have been written with a lot more tact and consideration for the sensitivity of the issue, and how deeply personal this is for many students in our community.*”

Others maintained that the strong language contained in the letter was appropriate, given the context in which it arose and the subject matter it was discussing. One student put it this way: “*We did not come here to figure out the most delicate way to say what’s happening is genocide.*”

We heard from some students who did not believe the reaction to the letter would have been any different even if the wording had been toned down. These students pointed out that pro-Palestinian petitions and protests have come under scrutiny at universities across North America, and suggested that any pro-Palestinian sentiment could face suppression.

Many students (and stakeholders) also submitted that the concepts explored in the letter are within the bounds of established and ongoing academic, legal, and political discourse,¹³¹ and within the bounds of their freedom of expression. It was argued that student expression does not need to be ‘mainstream’ or even correct to qualify as permissible free speech, especially within a university context.

¹³¹ See e.g. Alex Neve et al, “Palestinian rights advocacy and international law”, *Moving Rights Along* (December 2023): <https://www.alexneve.ca/blog/palestinian-rights-advocacy-international-law>.

8.9 Apologies and regrets

Many students expressed remorse for the hurt and pain that their participation in the letter had caused others.

These students especially regretted the letter's impact on the job prospects of all LASL students, given that the whole school was being 'blacklisted' by some legal employers. Some also regretted that they had encouraged others to sign the letter, either directly or indirectly by signing themselves.

One student said, "I've had a lot of thoughts of guilt and regret, maybe I could have done something, prevented this in some way" including by reading the letter more closely and encouraging their classmates not to sign. They went on to say, "That has also brought me a lot of pain as well, probably even more than the backlash. Seeing friends, people that I know, even people I don't know being harmed by this has been really difficult."

Another student told us, "When I signed I believed it could have had this great potential for education, conversation in light of the pillars of our school and the actions that they've taken before this. But I don't think it was written in a way that would've made people keen to seek the education that I was hoping was coming from this. With that in mind, hindsight is 20/20 of course ... More than anything I wish that it had been written differently."

One student, in the immediate aftermath of the letter becoming public, told us that they wanted to remove their name, but found the document closed to editing by that point.

A group of student signatories drafted, and considered disseminating, a follow-up apology and clarification statement. The authors of this apology included a disclaimer saying that they were not "affiliated or associated" with the AOC. Their apology stated:¹³²

To everyone impacted by the letter of October 20th, 2023,

We approach this letter with the utmost sincerity and humility, hoping you can read it with an open heart and open mind, setting aside any preconceived notions you have of us. We are students and humans who acknowledge the widespread harm caused by this letter and are committed to learning, growing, and making amends. We hope you can find it within yourselves to understand our sincere intentions.

First and foremost, we, as a group, extend our deepest apologies to all members of the Jewish community who were affected by the letter. After days of profound reflection and discourse, we understand and acknowledge

¹³² Bolding, underlining, and italics have been removed from both apology letters quoted in this section.

the pain and discomfort the letter has caused, and for that, we wholeheartedly apologize.

We unreservedly denounce and condemn any and all forms of violence. This includes the heinous terrorist attacks of Hamas on October 7th. Our hearts break for all innocent hostages and captives, with our hopes and prayers for their safe returns. Additionally, we equally denounce the crimes against humanity, collective punishment, and war crimes of an apartheid regime over Gaza. These terms are not our invention; but appointed and upheld by reputable organizations such as the Human Rights Watch, the UN, and Amnesty International. Driven by a shared sense of sorrow, grief, guilt, and concern, we signed the letter.

While obfuscated in the polarizing and poorly worded letter, the letter was well-intentioned. We have, and continue to want a ceasefire; this core intention has not changed. The error lay in the way this intention was conveyed, which regrettably, and unfortunately overshadowed the intention. We recognize that there were significant gaps in the letter which left our position unclear. Thus, it is imperative for us to emphasize that we denounce all forms of hatred, and are steadfast in our principles of tolerance, inclusion, understanding, and respect for all religions, races, and ethnicities. We believe one can denounce a government's actions free of judgment to a religion, race, and/or ethnicity. We must also emphasize that we stand for peace, and safety for all people, abroad and in our communities. Our intention is to learn from this situation and create an environment where diverse perspectives can coexist and be understood in a respectful and inclusive environment. We value your guidance and insights as we rebuild trust and promote meaningful, civil, and open dialogue.

In the same breath, we must extend our heartfelt apologies to our fellow peers and members of our faculty as well, and we recognize the pain and disappointment our actions have caused. We understand that this letter has placed all of you in a difficult and upsetting position. In the days, weeks, and months ahead, we are dedicated to taking concrete steps to rectify this situation and rebuild the trust that has been damaged.

We are dedicated to rectifying the pain that has emerged from this situation for all involved and welcome and actively encourage any input, suggestions, or conversations to help us find better solutions moving forward. We recognize, that as future members of the legal profession, we are held to a higher standard of responsibility and have a duty of care to our communities. Thus, we are committed to serving all diverse needs with equity, inclusion, and dignity.



However, we also must acknowledge the distressing events that have transpired in the past week. Members of our group have faced harassment, doxing, and exploitation from various individuals within and outside the legal profession. We are not terrorists. We are not antisemites. We are proud members of the legal community, who hold a deep concern, and love for our communities, school, peers, and the world as a whole. The vitriol directed at our group members has been deeply unsettling and inappropriate. It is our sincere hope that such negative actions will not overshadow the positive efforts we are making to rectify the situation.

In closing, our sincere hope is that we can collectively move forward, enriched by the lessons learned from this experience, and lessons we continue to learn, in an environment that fosters growth and understanding. We hope this letter provides clarity, and that we aim to rebuild the damage done. "In every community, there is work to be done. In every nation, there are wounds to heal. In every heart, there is the power to do it.

Given the backlash to the original letter, and the existence of this External Review, the students did not feel comfortable circulating or posting a copy of their apology.

We are also aware that the AOC, which drafted and disseminated the original letter, prepared a follow-up apology statement that was shared on WhatsApp. The AOC follow-up statement apologized to the signatories for misleading them about the distribution of the letter, and for not properly alerting them to the potential consequences of signing it:

*The Abolitionist Organizing Collective's apology to the Signees
October 27, 2023*

From: The Abolitionist Organizing Collective (AOC)

To: Signees

The AOC wishes to apologize to the Signees of the open letter that we released last Friday, October 20, for several reasons.

First, the AOC recognizes that we failed to properly inform signatories of the purpose and value of an open letter. It was wrong of the AOC to take for granted that all signatories were privy to the fact that an open letter is a letter that is intended to be read by a wide audience and widely distributed intentionally. We realize that not clarifying that the letter was being indiscriminately shared within the LASL community, was an oversight that precluded signatories from being able to make an informed appraisal of the risks of targeted retaliation. The AOC did not mean to mislead you, and we are so sorry.



Second, the AOC recognizes we failed to properly emphasize to signatories the particularly heightened and severe risk of retaliation that has come with all Pro-Palestine advocacy for the last 75 years. We realize that our disclaimers were not enough to comprehensively address the likelihood and extent of the risk of potential harm and violence that signatories have since incurred. The AOC did not mean to misinform you. and we are so sorry.

Finally, and most importantly, we realize that given we failed to properly inform signatories of our intent to widely distribute the letter to the LASL community, and of the risks of targeted retaliation, some signatories are now facing harm that they did not foresee. There aren't enough words to describe the regret we feel for our oversights in properly informing you—our community—before releasing the open letter. To all those experiencing unforeseen losses of jobs, interviews, connections, and/or important networking opportunities. we deeply apologize. To all those who are experiencing unforeseen targeted violence, racism, Islamophobia, homophobia, and xenophobia, the AOC is overwhelmingly remorseful and terribly sorry.

To have our community, our allies, our friends, and our colleagues experience any form of harm—let alone the extreme degree of violence that we are now facing—as a result of the AOC's organizing efforts, is truly a nightmare. We realize nothing we say or do will rectify the harm that our lack of due diligence has led many of you to unforeseeably experience. Trust that the AOC fully chests the ways in which we have failed you, and can only hope to learn from these mistakes to make for better organizing in the future.

While we can't undo what's already been done, we are committed to supporting you. We apologize for the time it has taken us to organize this letter to you; rest assured there has not been a moment we haven't spent organizing how best to address you, and the targeted attacks you've all incurred. Regardless, we understand that our silence may have signaled a lack of support or care, and for that we also apologize.

That said, we are aware that some of you are hurt and angry at the AOC, some of you are seeking support in the AOC, and some of you are ready to continue mobilizing with the AOC. IF this describes what you're feeling in any way, or otherwise, please email the AOC [...], or reply to this form if you wish to remain anonymous, to let us know how you feel and/or what you need. We want to hear you, and again, we are sorry we couldn't get this message out to you sooner.

In solidarity, AOC



The AOC's apology did not retract any of the letter's contents.

It is unclear how widely the AOC apology was circulated amongst the student body. We did not become aware of it until several months into this Review, and it was not mentioned by any of the respondent students. It seems quite possible that many of the respondent students never saw the AOC's apology.

8.10 The letter as a learning opportunity

Several students were able to see this experience as a learning opportunity, and reflected on lessons they had taken away from it. A signatory told us:

I think if anything this is an opportunity that will hopefully make myself a better advocate in the future, in understanding the value of words and language and the power that they have. This has been incredibly eye-opening. Hopefully in 20 years, I'll be able to look back and say that I won't change anything about the experience because of how much I was able to learn from it, and I'm hoping that's something that will stick with me – to make this as much of a learning opportunity as possible.

Students wished that the administration, and the general public, had treated the letter as a “teachable moment” rather than in a punitive manner. As one signatory put it: “I shouldn't have had to cry myself to sleep, worry about my future, feel my dreams were over. I felt we could have been brought in, this was a teachable moment that went to chaos.”

8.11 Administration's response to the letter

The respondent students unanimously expressed disappointment and a sense of betrayal arising from the LASL administration's public statement of October 23, 2023, which read in part:

The Lincoln Alexander School of Law did not issue, endorse or condone this letter. We unequivocally condemn the sentiments of Antisemitism and intolerance expressed in this message.

The letter does not represent the views of our law school or the many students, faculty, staff and community members that are committed to upholding our values of inclusivity, dignity, and respect. Statements that seek to promote or justify violence directly contravene these values.

Students were dismayed at the administration's allegation of antisemitism, felt they had been “thrown under the bus”, and lamented that LASL was not living up to its promise of doing law differently.

a) *Allegation of antisemitism*

For the vast majority of signatories, the implication that they were antisemitic was one of the most damaging aspects of the backlash they faced, with some describing the response as “*heartbreaking*.”

One student noted, “*the letter didn’t say a single thing about religion at all.*” Another said: “*that’s a very big statement to make and it completely took over what the legal profession perceives us as, what our peers perceive us as, and to a point where you start questioning yourself.*” Another considered the use of the term to be “*an outrageous response to disagreeing with something that students are saying.*”

Several students were dismayed and scared that their names would forever be associated with antisemitism, because they had been outed on several online platforms.

We heard from one student:

[Antisemitic] was a loaded word to use. This word has historical connotations [and] should not be used lightly, should not be used just for simple criticism or speaking up against crimes on other people. I think that was the issue ... I think that simply speaking up against something should not be labelled as a very hateful thing.

Another said:

I feel like the worst part of all of this is that my own school publicly, publicly, labelled me as antisemitic. I feel like they must have known how that would affect me and my mental health and how I perceive them, my relationship with the school, my trust for the school. The way that I’m perceived by the public, by the legal community, by my peers – this could affect me for the rest of my career. I feel like they just don’t care. It’s a really hard pill to swallow.

As we commented earlier, it is unclear what, if any, definition of antisemitism the administration’s statement relied upon, or whether any analysis was conducted to determine whether the students’ letter reflected concepts from academic discourse, before the statement was released.

Certainly, the participants did not consider the letter to be antisemitic. We heard from many students (and stakeholders) that criticism of a country’s regime or government should not be conflated with criticism of the culture, ethnicity, or religion that its residents may share. A signatory shared with us their view that: “*The wrongful conflation of antisemitism and anti-Zionism [is] often used as a silencing tactic to suppress pro-Palestinian voices.*”

Another signatory said:



I can't articulate how disappointing and discouraging it is, as someone who's literally dedicated my life to fighting antisemitism and racism, to have this accusation thrown at us, so flippantly, for such a disingenuous, superficial reason...trying to intimidate people who speak openly and publicly in support of Palestine...

The respondent students we met with unanimously condemned antisemitism. Many discussed the distinctions between anti-Zionism and antisemitism and (even though the letter does not itself talk about Zionism) objected to the characterization of anti-Zionist views as antisemitic.

Deborah Guterman, counsel for several students, submitted as follows:

The Open Letter is not antisemitic, not reflective of antisemitic tropes or stereotypes, nor does it hold Jews responsible for Israel's conduct. The Open Letter criticizes the government actions and conduct of the State of Israel. This is distinct from targeting members of the Jewish community. Opposition to actions taken by the Israeli government cannot reasonably be viewed as promotion of hatred towards people who identify as Jewish. To suggest that support for Palestinian self-determination equates to antisemitism not only assigns the worst possible interpretation to that support, but also suggests that support for Palestine, Palestinian freedom, or a Palestinian state is somehow incompatible with Jewish life and flourishing.

Several students and stakeholders asserted that criticism of other state governments would not be equated as being hateful, racist, or discriminatory, and considered it hypocritical to be called antisemitic for criticizing the Israeli government or state. For example, it was often suggested that criticism of the Iranian or Syrian governments, or the governments of Pakistan or Saudi Arabia, would not be considered Islamophobic.

b) Being “thrown under the bus”

We commonly heard that students felt “abandoned”, “let down”, “betrayed”, and “thrown under the bus” by the law school’s October 23 statement. Several students likened the statement to “throwing fuel onto a fire.” It was suggested more than once that the statement “fuelled the backlash” from the legal community and members of the public.

One student said the statement gave “credibility” to the ongoing hate and doxxing the students were experiencing: “It really cemented and bolstered all of the hate that came after.” Another said:

There is a direct line of causation between the school denouncing the statement and using choice statements, such as ‘anti-Semitic’ and referencing hate speech, to the harm that has been caused to students through media exposure and doxxing.

Another told us, “That’s when it really validated people’s ability to say what they could, email what they could, do what they could ... their school doesn’t even support them.”

All of this being said, multiple students acknowledged that the administration was in an incredibly difficult position, and did not know what they would have done if they were in its shoes. Students recognized that the law school was facing tremendous pressure to respond to the open letter. One student said:

I understand the law school has to take a neutral stance, and there were stakeholders who were affected who were upset... It put the law school in a very difficult position, I completely understand that. I could see the way everyone was tense and worried. At the end of the day, we want the school to operate, want to be a part of it. [If] stakeholders are going to ... pull funding [it was] completely valid for them to say something just to start easing tensions.

However, the signatories commonly felt that the school had failed to sufficiently consider how the October 23 statement would affect the school’s main stakeholders – its students.

There was also an impression that the October 23 statement may have predetermined the outcome of the External Review.

Signatories were upset that the statement was issued without them having a meaningful opportunity to explain why they had signed the letter. Indeed, the law school administration did not appear to reach out to discuss the letter with any of the signatories before releasing the October 23 statement, although members of the administration did, upon request, hold one-on-one meetings with students later in the Fall.

c) *LASL's promise to do law differently*

Collectively, the respondent students wanted the law school administration to defend their right to freedom of expression, even if it did not necessarily endorse the views expressed in the letter. Many raised the fact that, because the law school had marketed and branded itself as a progressive institution committed to social justice issues, they believed that they would receive institutional support from the school when facing backlash for speaking out on a controversial subject.

In other words, students' sense of betrayal was heightened because they believed in the promise of LASL being a different, new, and progressive type of law school that was reimagining legal education and "*doing law differently*." After the October 23 statement, that promise was seen as "*performative*."

One student signatory, who identified as a person of colour, said to us:

I feel like the school deceived me. I feel like I've been tokenized. I feel like they admitted all these people of colour and Muslim students to give the appearance that they're progressive, and they want to uplift marginalized communities, but when they had the opportunity to do that, they did exactly the opposite with no regard for our future.

Another said: "*I feel like myself and many other women of colour at the school feel as though we have been used as tokens of the school to make themselves and others believe that they care about the voices of marginalized communities.*"

Another signatory, quoting LASL's description of its Access to Justice pillar, said: "*Social justice principles aren't just talking points ... when things really mattered, when our ideas and our perspective really came to it, they shunned us and they shut us down and they were very quick to label us with antisemitism.*"

One student talked about how Lincoln Alexander is known for being social justice-oriented, rather than focused on "*reputations*" and "*working on Bay Street*." For this reason, the student thought the school would be "*more supportive*": "*We're also predicated on these sentiments of working with minorities, speaking up, social justice. For them to blatantly undercut one of the very disadvantaged groups and peoples, I think that was also very shocking. It's not what we're taught in class.*"

A signatory talked about their broken trust:

I feel deeply let down by this institution. There were numerous opportunities to defend free speech, to make informed decisions supporting students, and to recognize the legitimacy of well-respected academia and international law. Unfortunately, these efforts took a back seat. Instead of acknowledging the truth within the statement and fostering direct conversations about the ongoing genocide in Palestine, the school opted for a different approach.



As a result, my trust in this institution has been severely shaken, if not completely severed.

We heard from another student:

I also came to this law school in particular because I really liked the social justice, access to justice pillar and priority that they talk about. That's really what attracted me to this school. When I feel like the school administration is not acting in accordance with that, it makes me feel disappointed, makes me feel sad, because I chose the law school for that reason. It makes me feel [like], what is this for? Why are we here? Those are things I'm truly passionate about. When I put in my application that I'm interested in access to justice, social justice, I was being truthful, I meant those things sincerely. I wanted to go to this law school and that's why I came. If that's not actually true, I'm really disappointed.

One student told us that LASL was supposed to be a place where those with more radical opinions about changing the law could feel not only safe, but empowered. Unfortunately, this student felt that hope had “*blown directly back in our faces.*” That same student said, “*I speak for many students when I say that we're all feeling very cheated by the experience that this law school has put forward on paper.*”

Another student said, “*It has all felt like a lie.*”

Similarly, a student said, “*I hope that the institution recognizes the amount of harm that they've caused students...by making themselves appear to be a specific type of institution and then turning around and throwing said students under the bus to try and save their reputation.*”

Another suggested that the administration could have said something along the lines of “*we do not agree but please respect these students because they're trying to learn how to be legal advocates... allow us to deal with this in a private manner, we'll let you know what happens.*” Instead, this student felt that the school “*jumped the gun*” by saying that the students were antisemitic, before talking to the signatories to understand their intentions.

Some students were left questioning whether they wanted to continue in law school at all, or join the legal profession thereafter. At least one student had decided to take the semester off, and another told us that they were having a difficult time reconciling the school's actions with their upcoming graduation, stating, “*I can't imagine walking across the stage and shaking a hand and accepting a diploma from a group of people who have called me antisemitic and hateful.*”

Many of the students called for the LASL administration to issue a public apology, acknowledgment of harm, and/or a retraction of the October 23 statement, as a way of

rebuilding trust and helping the respondent students move forward in their legal education and careers.

8.12 Asymmetry

It was suggested by a number of students (and stakeholders) that there is a systemic “double standard” and “asymmetry” when it comes to treatment of pro-Palestinian speech compared to speech in support of Israel. For example, it was pointed out that a complaint was made against the students who signed the letter and not any students who may have been responsible for disseminating the letter outside LASL. One student commented, “*I would like the school to make clear that students will not be punished for supporting Palestine just as students are not punished for supporting Israel.*”

When asked for forward-looking recommendations, one signatory said:

I'm not sure what can happen when only one side is being investigated. It would be a different situation if these students who have opposing views were being investigated. I don't know how you bring people to the table and have these discussions in a way that feels genuine when one side is being potentially sanctioned for having these views.

Signatories expressed a desire for a space where everyone can freely share their beliefs, without fear of retribution or consequences. We were told:

When I'm asking for my right to say my opinion, that goes for everyone, not just me. When I say I should be able to say “Free Palestine” they should be able to say their opinion. That's what academia is built on, opinions.

8.13 Chilling effect

There was a nearly unanimous view that the letter and resulting backlash have contributed to a sense of fear among LASL students, and had a chilling effect on dialogue.

Many students have not felt able to openly discuss the Israel-Palestine conflict in class, and some have been reluctant to discuss other potentially controversial topics. We also heard that some professors have openly criticized the signatories in class, using words like “*stupid*” and “*extreme*” to describe the signatories’ actions.

A student said, “*I don't want to advocate, I don't want to have opinions on controversial or potentially controversial subjects – it's not something I want to do anymore.*”

One student spoke of their experience by saying, “*permanently it's instilled this sort of reluctance in me and it's affecting my ability to be able to make political statements or speak up for the plight of others ... What has happened has made me feel like it's better to just stay quiet – in a way to silence me.*”

Another student said: *“I have a lot of shame in having my name on this letter, not because I’ve changed how I feel about supporting Palestine or innocent civilians, it is just challenging to feel kind of silenced in terms of how I show my advocacy. I have been really afraid of being vocal about anything since.”*

Multiple students talked about losing a sense of community and camaraderie within the law school. One student shared that: *“Everyone kind of went into their own shells; nobody trusted anybody else. Nobody [was] willing to hear out anybody else’s opinions if they didn’t share their opinions.”*

Signatories expressed disappointment that this controversy has occurred at a university, and particularly at a law school, where they believed that open debate ought to be encouraged and nurtured: *“If we can’t have these conversations in academic institutions, where should we have them?”*

Students have reflected on the scope of freedom of speech available to them in the legal community: *“I’m realizing in the legal community freedom of speech is a lot more limited than I had previously thought and from now on I’m going to be very careful about what I put my name to, because there can be big repercussions for that.”*

8.14 Impact of the External Review

It was often suggested to us that the External Review has itself contributed to the culture of fear and silence at LASL in the wake of the letter, as well as played into the asymmetry referenced above.

A student shared:

Even if the conclusion of this investigation is that no wrongdoing occurred on the part of the signatories, the damage is already done. Muslim women have spent the better part of this school year fearing they could be expelled. Respondents to your request for meetings have spent countless hours preparing submissions when they could have been using that time to study. Signatories’ law school grades will suffer because this investigation was undertaken. Future opportunities will be curtailed because students spent countless hours preparing and worrying for how they would respond to these demands that we explain ourselves, rather than spend that time studying. This investigation is an indirect tool of oppression, regardless of what the ultimate findings are. This investigation is having the effect of silencing informed dissent against the government’s official foreign policy. This all breaks my heart.

8.15 The backlash

The respondent students experienced an immediate and prolonged backlash on multiple fronts.

a) Immediate online backlash, including doxxing

The online backlash against the signatories began almost immediately after the letter was disseminated. The text of the letter spread quickly across various social media platforms, particularly X / Twitter and LinkedIn. Commenters were sharing the names of signatories, their personal social media accounts, and sometimes their contact information and photos.

Some signatories were surprised that the letter generated such a strong public opinion in a short amount of time. One noted that *“people are very quick to judge and think the worst and misinterpret things, skew words to mean a certain thing, and that was disappointing to see that people aren’t always willing to have a discussion – they just make assumptions.”*

Another signatory told us: *“Seeing my name being slandered across various platforms has affected me the most—being associated with words that do not reflect my personal character or my actions in this context has been extremely painful. It has been incredibly difficult to see hundreds of comments online insulting me and my abilities as a prospective lawyer. All over social media ... and even news media ... I and my peers have been accused falsely of antisemitism and of being proponents of terrorism, rape, and murder of women and children.”*

Many of the signatories had their LinkedIn profiles (including their photos) screenshotted and circulated on Twitter / X and LinkedIn, including by lawyers. Their names also appeared on websites such as “HonestReporting Canada.” When the students’ names are googled, their names are now associated with terms including “antisemitic” and “terrorist.”

A student mentioned being nervous to reach out to any prospective employer without knowing how they reacted to the letter, noting that if the employer googled them, the first page of the search results would describe the student as a terrorist and Hamas supporter.

Many students ended up deleting their social media profiles or changing their privacy settings. One student was so concerned that they had their name removed from prior publications they worked on. Counsel for one of the signatories submitted that, by causing them to de-activate their profiles on LinkedIn (an important platform for law students to network), the legal community forced these signatories to *“invisibilize themselves.”*

A few students identified as *“very private”* people with a limited social media presence, and felt especially uncomfortable and exposed by the fact that their names and photos were now circulating on the internet.

Another student added that, as a Muslim person born in the Middle East, they are already often flagged for extra security checks when travelling internationally. This student was concerned that their participation in the letter might impact or jeopardize their ability to travel.

Others were less surprised by the rapid backlash, attributing this to their personal understanding of the risks involved with pro-Palestinian advocacy.

b) Hate mail and safety threats

Many signatories received disturbing and threatening emails, phone calls, and messages.

The hate emails that some students received included threats of violence and even death, as well as graphic videos and images.

Many students' email addresses could be easily ascertained by combining their first and last name, and these students received a number of identical hateful emails from people who were apparently unaffiliated with TMU. Students who did not have the identifiable pattern in their email address considered themselves "*lucky*" to be spared from the vile email messages. Another student who did not receive hate emails attributed that to the fact that their last name appeared European.

One student mentioned receiving hate email ten minutes before a midterm.

Other hateful messages were received over the phone or social media.

A Muslim student spoke about the impact the hate mail had on them. They recalled being called a "*terrorist*" as a child, and described having to live through that traumatic experience all over again when the backlash unfolded.

Several students reported to TMU administration that they had received hate emails in their TMU accounts. However, we heard from more than one student that it took the administration days, weeks, or even months to respond. We understand that IT eventually put filters in place which seem to have helped, but by that point significant damage had already been done.

c) Continued online backlash

There were a number of public statements, media reports, and websites published relating to the open letter.

Some of those sites reproduced the list of student signatories, and are still available online. Other articles called for the students to be expelled. There were additionally several petitions and letters, some of which were endorsed by members of the legal community, speaking out against the law students. (Many of these were described earlier in the report.)

d) *Professional impacts*

The backlash to the letter had a significant professional impact on the signatories.

For example, several students did not receive the callbacks for further interviews that they had been expecting. Others thought they had interviewed well with certain firms, but ultimately did not receive offers.

One student commented that their interviews went really well, but then law firms started posting their stance about the conflict, which made this student realize their actual prospects were slim. Another student recounted applying to at least 30 positions, but not receiving a single interview, despite their good grades and extracurricular activities.

A student shared that it was “*very difficult seeing all of these law firms rescinding offers, declining to take interviews, posting on social media without hearing from any of us*” when the “*first thing you learn about law [is] you’re innocent until proven guilty.*”

A student from outside Ontario received a Facebook message from a member of the legal profession saying the student should not be able to practice law in their home province.

Many students were disappointed and dismayed to see powerful members of the legal profession taking these positions. One student said, “*Overall it was really the lawyers that were posting that stuff that was really disappointing... I entered law school with really high expectations of who lawyers were, and for people to show no civility and no professionalism in my opinion was really hurtful and really disappointing.*”

Another law student said: “*I expected better from the legal community ... Watching professionals rip apart young students, I just expected better.*”

Several students told us that they did not participate in recruitment opportunities at all, believing they would not receive a fair opportunity. Students described feeling restricted in terms of where they could apply, or thinking the “*chips were stacked against them.*” One signatory described:

Knowing myself, otherwise I would have gone to every single networking event, but because my name was publicized, I didn’t feel incredibly comfortable telling people who I was at some of these networking events which was definitely challenging. I’m very excited to be hopefully in this profession and, again, I haven’t lost opportunities but I think it has impacted how I’ve moved forward.

Many students were under the impression that they had been “*blacklisted*” from working on Bay Street, and it was suggested that their names had been circulated amongst those firms. While some students said they did not want to pursue careers on Bay Street, others were open to the possibility and now feel it has been closed to them.

One student told us that they have decided to only apply to places where the political beliefs appear to align with their own.

Other students lost mentorship opportunities. We heard from one student who lost a mentorship that was expected to lead to an internship, and another who signed up for a mentorship that fizzled out after the letter.

Similarly, a student who was expecting a mentorship with a Crown attorney received an email abruptly cancelling their first meeting, without any follow up. Another student's mentorship in criminal law was rescinded, as their mentor worked in government and said they could not be the student's mentor anymore because of the letter.

Many students have not yet secured a placement, which is a mandatory component of the Integrated Practice Curriculum at LASL. While they could not attribute this directly to their participation in the letter, they reasonably suspected that their participation had impacted their job prospects.

Furthermore, several students had their existing placement opportunities affected by the letter.

One student described having to work from home while on placement, and then having to switch to a different position shortly before the placement ended. They believed that the letter "*ruined*" their placement experience.

Another student resigned from a volunteer role after they started being left out of meetings once the letter came out. Yet another student lost an experiential learning opportunity through the Legal Innovation Zone.

One student was fired from a legal position without reasons, but believes it was connected to the letter.

Many of the signatories were extremely concerned about their long-term future career prospects after participating in the open letter. Several students told us this was the hardest thing they had gone through in their life, and they feared that everything they had worked towards would be taken away from them. One student felt "*it's all been taken away for the reason I wanted to go*" — to make a difference and advance social justice.

Another student discussed their dream of one day becoming a judge, but felt that was now unattainable.

Others questioned whether the legal industry was an environment or profession they even felt comfortable going into anymore. A student described feeling that: "*No matter how hard I work, no matter how much effort I put in, these opportunities will be unjustly withheld from me.*"

On a positive note, some students had supportive workplaces and/or pro bono placements, and they were grateful not to have suffered repercussions in this regard.

e) Specific personal and educational impacts

The respondent students' mental health has suffered as a result of the backlash and the External Review process. Many students spoke of the impact the entire situation has had on their mental health, with one student describing their mental state as “*very stressed, depressed and anxious*”, and another saying they had been crying themselves to sleep.

One student told us that they had enrolled in therapy for the first time. Another told us that they sometimes wake up in the morning and cannot believe they are still putting one foot in front of another. A third student described not being able to get out of bed and experiencing a loss of appetite.

Students described the “*emotional labour*” involved in participating in the External Review, including the stress of finding a lawyer and preparing for meetings. Another said of their experience:

I have found the last few months challenging and exhausting. Preparing for this meeting alone has taken countless hours, and almost all of that time was during either my recent exam period or my holidays.

For many students, their academic performance has been negatively affected by this experience. Students commonly told us that it was difficult for them to focus on assignments and exams, with the underlying anxiety of knowing that there are professors who openly disagree with them. We heard from one signatory, “*the aftermath of the letter’s leak has taken a severe toll on my mental health and academic success. I continue to find myself struggling to attend classes, and my energy to care for myself and my community has been greatly diminished ... I find myself overwhelmed by grief, rage, and anxiety.*”

The students were acutely aware that, because of this External Review, they were facing potential sanctions up to and including expulsion. As one student put it: “*I also know in the back of my mind that expulsion is on the table, or suspension... and so I’m working towards something that could be taken from me, something that I really value. My legal education is something I really value, I really appreciate.*”

Several respondent students even stopped going to class, for weeks or more at a time, fearing for their safety or considering the law school environment to be “*hostile.*” As a result, some requested accommodations on their coursework.

One student described losing their sense of identity as their schoolwork began to suffer for the first time in their life, and began questioning their own self worth.

Many of the students felt unable to tell their parents the full scope of what was going on, as they did not want to disappoint them or add to their stress.

Several students acknowledged that the school had circulated lists of mental health resources, but said those resources were not always accessible and involved a lot of time and paperwork to access. The standard lists of resources at the end of communications to students — including correspondence from the External Review — were sometimes seen as more performative than practical.

One student told us that they reached out to TMU for mental health supports, and did not receive any follow-up for several weeks. This student ended up arranging support from outside of the school's resources. However, another student shared that in their experience, TMU's response to a request for help was, at least in terms of scheduling appointments, relatively expedient.

Some signatories did not know who they could trust and were reluctant to reach out to professors or staff members for support, out of concern that those efforts would later be used against them. More commonly, though, students praised the particular professors and staff members who had supported them during this stressful period.

f) Relationship breakdowns

Many students' friendships had broken down as a result of the open letter. The word "ostracized" came up repeatedly.

A common theme was the feeling that everyone was talking about the signatories behind their back. Students recalled walking in a hall or into a room and people would stop talking, or start whispering. This was especially difficult for visibly Muslim women.

Several signatories also discussed the unfortunate reality that the non-participant students had, in many ways, been 'painted with the same brush' as participating students, and been deprived of opportunities as a result. As one student expressed, "*regardless of if you knew of the letter or you signed it, everyone has been negatively affected by the backlash.*" The feeling that non-signatories were angry or resentful contributed to the uncomfortable atmosphere.

There was also a recognition from second- and third-year students that LASL had lost the close-knit sense of community they had experienced prior to the letter.

All that said, many of the students continued to benefit from strong relationships with each other, even if their circles had become somewhat smaller than they were before. Several students expressed gratitude for their friend groups. Some also felt that tensions at school had lessened somewhat over the past few months.

8.16 Specific impact of the MAG attestation

In many of our discussions, we heard about the significant impact of the attestation required by the Ministry of the Attorney General.

After the letter became public, the Ministry of the Attorney General required applicants from Lincoln Alexander to either attest that they did not participate in the letter, or to explain their participation. To the best of our knowledge, this requirement applied to students applying for placement and/or summer positions, as well as judicial clerkships. The option to explain their position was, we believe, added later, and not widely publicized or well known.

The attestation impacted respondent students who were working at MAG at the time, as well as students who were interviewing there in the fall or winter, and those who were considering applying in the future.

Some students who signed the letter by name told us they did not receive a copy of the attestation, presumably because their names were already known to MAG, but some still applied for positions with MAG.

Many felt the attestation requirement emboldened other legal employers who were taking, or wished to institute, a similar approach.

The External Review invited MAG to meet or provide a written submission or statement. MAG provided the following statement:

The Ministry of the Attorney General (MAG) is committed to the guiding principles of equity, diversity, and inclusion, and to ensuring that our workplaces are free from all forms of discrimination, racism, hate or fear, including Islamophobia and antisemitism.

MAG's lawyers and law students share a responsibility to demonstrate these values in their professional conduct, and to ensure that they always maintain the highest legal professional standards of integrity, fairness and dignity and inspire confidence in the administration of justice.

MAG does not comment publicly on human resource matters. We can confirm that in responding to the October 20th Open Letter, the procedure MAG followed was fair, including, being transparent with students affected, providing an option to attest and/or opportunities for discussion, and providing clear and appropriate responses for each individual circumstance.

MAG will stay informed of updates regarding Toronto Metropolitan University's external review.

Part 9.0

STAKEHOLDER PERSPECTIVES

9.0 STAKEHOLDER PERSPECTIVES

The letter had significant ripple effects beyond the respondent students. We heard from three groups of stakeholders who were particularly affected: LASL students who were not involved with the letter; members of Jewish communities; and members of Arab and Muslim communities. In discussing these categories of stakeholders, we do not intend to oversimplify the impact that the letter had on those who do not fit into these categories, or on those with intersecting identities. We also recognize that none of these groups, which overlap in some respects, are monolithic. Nor do these groups necessarily have opposing viewpoints from each other.

The External Reviewer was open to considering submissions from stakeholders regarding how they interpreted the letter, and how the letter impacted them. Overall, these submissions were relatively balanced in terms of whether they supported the letter or not. While the stakeholders' submissions provided important context, procedural fairness considerations prevented the External Reviewer from using them to influence outcomes assigned to the respondent students.

The following sections use a mix of paraphrasing and direct quotes in order to provide as accurate and concise a summary as possible.

9.1 Stakeholder students at LASL

Over the course of our review, we heard from students who did not participate in the letter, but were significantly impacted. We refer to these students broadly as “stakeholder students.” We spoke to 15 such students, and received written submissions from 9 more. Below we summarize what they told us about their expectations for LASL, their perspectives on the letter, the impacts of the letter and the backlash on job opportunities and LASL’s reputation, and their ideas for moving forward.

We also need to leave space for the “silent majority” at the law school. The unfortunate fact remains that we did not meet with or hear from a majority of the 450 students at LASL. Whatever their reasons for not reaching out — whether they wanted to distance themselves from the situation, protect themselves from backlash, or just move on — we hope they find themselves reflected somewhere in this report.

a) Students’ expectations for LASL

The stakeholder students told us that they, too, believed in Lincoln Alexander’s promise to be a “different kind of law school.” They enrolled with high hopes and expectations for their legal education.

Some students highlighted the focus on technology, and the practical components of the IPC, as particular draws. Another student appreciated that the law school’s foundational pillars had been integrated into substantive law courses, providing examples of gender

and racial diversity being considered in competition law class, and of a course that considered the impact of privacy law on low-income communities.

One student said:

We're not just learning the law as an abstract; I'm learning the law and seeing how I can relate it to the things I've gone through in my life.

Students valued the diversity of LASL, and understood that this diversity could result in different opinions amongst the student body. As one student put it:

A great strength of our school is that we have sought out people with diverse interests and are very passionate about those interests and they got to make change and that's great. ... Now we are kind of experiencing a flip side. People are constantly monitoring their behaviour, wondering how they'll be perceived by others.

Another student told us:

LASL has successfully curated a fantastically diverse student body. I think this is its greatest success. We are the school's greatest asset and largest investment. But LASL seems not to have considered that diversity brings a conflict of ideas and values. That is its strength, and it should be treated as an asset to be nurtured, but the school has treated it as a liability.

Some noted that LASL had encouraged its students to become champions of anti-racism and anti-colonialism. Yet, when the respondent students attempted to do so, there was a sense that they were abandoned by the administration, without any opportunity to rectify or learn from their mistakes.

Other students believed LASL had not embraced students with more conservative views. Some felt that there was only room for one perspective in classroom discussions, and not enough was being done to nurture debate on all sides of a topic.

Students who wanted to pursue more “traditional” legal careers, or just learn more about the business of law, experienced pushback from classmates who were more interested in non-profit or pro bono work.

We also heard from students who simply wanted to focus on black-letter law, and did not want to engage in political debates. One student told us, “I went to law school to go to law school.” Another said, “I'll have some political debates but that's not why I came to law school.”

b) Perspectives on the letter

Many, but not all, of the stakeholder students supported the respondent students. There was also strong criticism of the administration's October 23, 2023 response to the open letter. One student told us, *"It is this statement, not the Letter itself, that has poisoned the environment on campus."*

According to one student's letter to us:

Unfortunately, the response of the school's administration with regards to the letter was disappointing and contradictory to their mission as an emerging progressive and inclusive law school. In addition, the public's response has resulted in material losses and various consequences for several students that could potentially alter their future career paths and positive contributions to the law society in general. The response created a sense of division amongst law students, which I believe is not reflective of the letter's intention to raise awareness of complex world issues and systems of oppression that affect all individuals one way or another. Instead of aiming to preserve the spirit of these pillars, students did not receive the support that was expected from the school, leaving us to feel vulnerable and unsafe to express our identities, feelings, and thoughts.

Lots of students appreciated that the administration was in a difficult position, but thought it would have been better for the administration to help the students move forward, and teach them how to improve their written advocacy, rather than admonishing them.

One stakeholder student submitted that:

The school does need to apologize for the fact it has done the one thing that I don't think any institution should do, which is to silence students.

This is not to say that the stakeholder students were uncritical of the letter, particularly the way it was written. Several wanted the signatories to acknowledge the harm caused by the letter. They were also disappointed in the small number of students who have suggested to their peers that those who are not openly advocating for Palestine are supporting genocide.

One stakeholder student explained their view as follows:

In calling for such a divisive stance from the administration, and in using many of the words and statements they used, they ought to have known the impact it would have on the Jewish community directly and on the broader LASL community. [...] Advocating for the people of Palestine could have been achieved in a way that did not divide the school community and isolate an entire group of students and faculty. As law students, the writers and signors ought to have been able to read between the lines and anticipate

the impact of both the words and forum they were using to get their message across.

We heard that Arab and Muslim students who did not sign the letter were particularly affected.

One such student described experiencing Islamophobia and racism their entire life, and then being so excited and hopeful coming to Lincoln Alexander, with students and faculty dedicated to anti-racism, many of them people of colour themselves. This student described a shift in the school after the October 7 attacks. They recalled seeing divisive posts on social media, and described the hurt and anger permeating the student body.

This student elected not to sign the letter. They recalled feeling inspired by the letter, but they were wary it might be misinterpreted. They have since struggled with guilt and shame over not signing the letter because, in staying silent, they avoided the consequences that some of their peers were facing.

We heard from a Jewish student who said they had no issue with the letter for the most part. Although they found it deeply unsettling, at the time, to see the letter's support for "*all forms of Palestinian resistance*", they thought the letter made "*important points about colonialism and the power imbalance of the situation.*" This student described themselves as "*deeply committed to Palestinian freedom and justice*" and a "*strong supporter of pro-Palestinian movements.*" They firmly believe the definition of antisemitism should not include criticism of Israel. They have been devastated by the backlash to the letter.

c) Impacts on job opportunities and LASL's reputation

The letter, as we have stated, attracted considerable attention from the legal community and the media. The fallout directly impacted the day-to-day experience of the LASL community, and it affected placement and other job opportunities for many LASL students (not just those who signed the letter).

Because Lincoln Alexander students are required to complete a placement as part of the IPC program, the school relies on maintaining strong relationships with legal employers who are open to hiring LASL students. Law students also need to find summer job opportunities, and more permanent work upon graduation. This means that Lincoln Alexander students are generally hunting for at least two job opportunities, if not more.

After the letter became public, many law firms and lawyers openly said on social media that they would not hire any students who signed the letter. Articles and petitions within the legal community took the same stance.

There was a reasonable belief among stakeholder students that some law firms had "blacklisted" all LASL students, at least for the short term.

One student (who did not receive a job offer) asked a student recruitment officer what they could have done differently: *“He had told me that it was really out of his hands because no one was essentially touching our school with a 10-foot pole.”*

On the topic of “traditional” law firm jobs, another student said, *“I don’t think the letter-writers even care because they didn’t want those jobs. But a lot of students did.”*

The Ministry of the Attorney General’s attestation requirement had a particular impact. Some stakeholder students felt like they were betraying their classmates by giving the attestation and denying involvement in the letter.

One student told us:

I had an interview with the Minister of the Attorney General and they passed the attestation my way to make sure I haven’t signed the letter, and I hadn’t signed it so I was fine... But the whole interview was awful ... it’s fairly clear that I’m Muslim, [so] they can probably assume where my loyalties lie.

Some stakeholder students regretted having to distinguish themselves from their peers who did sign the letter. As a student said:

This was the first time I actually had to differentiate myself from my peers to kind of secure my own future ... last year, that’s the complete opposite thing I had done. I was using my school as a selling point: look at this amazing program that we have; this is why you should take me rather than someone at another law school.

Students have found it so challenging to find placement opportunities that they are worried they might not graduate. Many others are worried about their job prospects after graduation.

Students worried that needing to set themselves apart from their colleagues could make it harder to build up an alumni network in the future.

d) Impacts on the culture

Stakeholder students, like the respondent students, told us about the “chilling effect” at LASL since October. They became uncomfortable sharing their opinions, out of fear that their peers or the administration might turn on them.

One student said:

I think it’s important to recognize that we are a new law school and this is one of the years that law school is fully present in person and we’re still establishing what community looks like for us. Which is totally fine, and I know that mistakes will have to be made ... I do think that people should be

able to say whatever they need to say but the university needs to create spaces where they can say things in a respectful way.

Another student spoke about the toll on their mental health:

Five months is too long to bottle up your feelings when law school already demands a certain degree of unfeeling to get through the program. Law school is toxic enough. We need healthier community practices.

Some students were quite concerned about the tenor of social media discourse, and the possibility that their classmates were unwittingly spreading disinformation online.

Another student shared an incident of mistaken identity where they were accused of signing the letter but it was actually someone else. This not only hurt the relationship between those two students, but also impaired the non-signatory's other relationships at school.

The social consequences were striking for lots of students, who talked about walking down the hall and feeling like people were whispering about them. We heard it felt like "walking on eggshells."

We heard from Jewish students who described rifts and rejections in their social circles arising from the letter. They told us about being physically blocked in the hallways, having their classmates laugh at them or roll their eyes at them, and generally feeling excluded.

For second-year students, the difference from their collegial first year was particularly pronounced. As one student described:

My first year was incredible. I told anyone and everyone, this is the best place I've been in my life. I have teachers who look like me, peers who are so successful... so much space and liberty to be who I want to be.

We also heard about various events at the law school being cancelled, further diminishing student opportunities to connect and build relationships. For example, we heard that students were forced to cancel a "Culture Fest" due to purported safety concerns. We also heard that some student groups had difficulty finding sponsors for student events.

The few student-led events and initiatives that have gone forward seem to have been better received than events organized by the administration. For example, we heard about a wonderful community iftar that the Muslim Law Students Association held during Ramadan. We also heard that a Jewish student brought in hamantaschen for the class in honour of Purim, and thoughtfully put some of the cookies in take-home bags for the students who were fasting for Ramadan.



e) *Financial impact on LASL*

Many students (and stakeholders) were concerned about the financial impact that the letter might have on the law school. This proved to be a complicated issue that was beyond the scope of our mandate to resolve.

On a brighter note, we recently learned that a new scholarship fund for first-year law students at LASL has been established by two prominent Muslim and Jewish families, and matched by an anonymous donor. The “Belzberg and Soliman Families Scholarships” are designed to support law students who have demonstrated leadership and a commitment to bridging divides to bring communities together.¹³³ This announcement is a reason for optimism.

9.2 Stakeholders from the Jewish community

The letter landed in a climate of pain, shock, trauma, and re-traumatization for the Jewish community. The letter came out only a few weeks after the horrors of the October 7 attacks, and amidst the ongoing hostage crisis. A number of people we spoke to had personal or familial connections to Israel, and some had loved ones killed or taken hostage on October 7.

Many members of the Jewish community were profoundly hurt by the student letter, particularly without any further context from the students who authored it. (The apology letter that some of the signatories drafted, which began by extending “deepest apologies to all members of the Jewish community who were affected by the letter”, was not made public.)

Additionally, the letter became public at a time when Toronto was experiencing a rise in incidents of antisemitism. We heard of bomb threats being called into Jewish day schools, couples being accosted walking home from synagogues, and Jewish-adjacent businesses being vandalized and defaced. One stakeholder pointed out that the Toronto Police reported a 132% increase in antisemitic hate crimes in October 2023.¹³⁴

We understand and appreciate that this broader context informed the way the letter was read and interpreted by many Jewish readers.

¹³³ Toronto Metropolitan University, TorontoMet Today, “Belzberg and Soliman families create scholarship for first-year law students” (April 18, 2024): <https://www.torontomu.ca/news-events/news/2024/04/belzberg-and-soliman-families-create-scholarship-for-first-year-law-students/>.

¹³⁴ “Hate crime reports up 132% amid Israel-Gaza conflict, Toronto police chief says”, *CBC News* (October 19, 2023): <https://www.cbc.ca/news/canada/toronto/hate-crime-rise-israel-gaza-1.7001288>.

We will next summarize the meetings held and submissions received from Jewish community stakeholders. From within TMU, we met with the Jewish Law Students Association; Dr. Sari Graben; Prof. Sarah Morgenthau; the Jewish Employee Community Network; and the Jewish Faculty Network at TMU. From outside TMU, we met with Deborah Lyons, Canada's Special Envoy on Preserving Holocaust Remembrance and Combatting Antisemitism; the Centre for Israel and Jewish Affairs; lawyer Mark Sandler and the Hon. Harry LaForme; and Independent Jewish Voices Canada.

We recognize that none of these stakeholders speak for the entire Jewish community, which benefits from a wide variety of perspectives that we were privileged to learn more about.

Jewish Law Students Association

We met with several members of the JLSA at Lincoln Alexander.¹³⁵ They noted that there are under 20 openly identified Jewish law students at LASL – a small minority in a school of about 450 students. While they said it was challenging to be Jewish at LASL even before October 7, the situation significantly worsened after that.

After the October 7 attacks, members of the JLSA posted a statement supporting Israel on the JLSA's Instagram account. In response to that post, JLSA members received an influx of hateful messages and comments. They were also "bombarded" by the anti-Israel posts they were seeing on their classmates' social media accounts.

Some said they have been presumed to hold certain views, even though they have not publicly disclosed or shared their views on the conflict.

Their experience at school deteriorated further with the release of the open letter signed by so many of their classmates. In their view, the letter contained hate speech against a minority group.

Instead of school being a place where they could escape the news, being there made things worse. These students no longer felt safe at school; one said they started sitting in a corner spot at the library so there would be no one behind them. They told us that *"the people who participated in the petition are seeing consequences for something they did. We are receiving consequences for being Jewish."*

This feeling of unsafety extended off campus, too. One student had received messages from loved ones asking if they wanted company on the commute home so they wouldn't have to walk alone. *"It shouldn't have to be like that. I'm just going to school,"* this student said.

¹³⁵ Not all Jewish students at Lincoln Alexander are members of the JLSA.

They did not necessarily intend to become advocates, but felt they had to fight for their own, as well as other Jewish students', right to exist and receive a legal education at Lincoln Alexander. As a result, JLSA members were left mentally and emotionally depleted.

JLSA members appreciated the support they had received from the Lincoln Alexander administration, but they wanted more concrete action in response to the open letter. They wanted steps taken to address the impact of the letter on Jewish students, and suggested that more education on antisemitism was required, whether by bringing in speakers or integrating the topic into the curriculum. One student, referencing Lincoln Alexander's pillar of diversity and inclusion, asked, "*Does that include Jewish students?*"

The JLSA members told us they were committed to making the school environment safe and inclusive, so all students can complete the legal education they worked so hard for.

Dean Sari Graben

We met with the Associate Dean of Research & Graduate Studies at the law school, Dr. Sari Graben, as part of our review.

Based on her experience as a Jewish employee at TMU, Dr. Graben perceived that some administrators of the University are reluctant to accept that antisemitism is a systemic problem at TMU, or are concerned that condemning antisemitic rhetoric would have unintended consequences. She identified a need for education on antisemitism generally, and on campus specifically.

Dr. Graben felt that the University should do more to address antisemitism on campus, and offered a number of recommendations.

First, Dr. Graben recommended that the University strike a Task Force on Freedom of Expression and Respectful Dialogue. She highlighted that academic freedom and freedom of expression are not unlimited rights, and suggested that a Task Force could develop educational tools and principles to help explain what the limits are, while ensuring the open and respectful exchange of ideas.

She referenced academic disagreements about the relationship between anti-Zionism and antisemitism, and thought the University should provide examples of student speech that is critical of Israel but nevertheless protected as an exercise of freedom of expression. She submitted that the IHRA definition of antisemitism does not prevent criticism of Israel, and that the University should support scholarship and teaching that supports Palestinian analysis of Israel, including deeply critical analysis.

Dr. Graben also shared her view that the administration's support for Palestinian and Israeli scholarship and speech requires training on methods that uphold the missions and aims of the University to advance knowledge and research.

Prof. Sarah Morgenthau

We met with Sarah Morgenthau, a practicing lawyer and an Adjunct Professor at LASL, as part of our review. Professor Morgenthau is Jewish.

Professor Morgenthau advised us that her decision to join the teaching staff at LASL was motivated by its promise to be a “different type of law school” focused on diversity, equity and inclusion, as well as technology. This vision resonated with her and aligned with her practice.

Professor Morgenthau shared, however, that she had heard other members of the Jewish community express reservations about the law school’s handling of prior incidents of concern to the Jewish community. She told us that she really wanted to believe in the law school’s mission, and joined despite the warnings she had received.

Professor Morgenthau described feeling shocked, saddened, and fearful after reading the student letter of October 20. She read the letter as voicing support for all forms of violent resistance on October 7, including the slaughter and torture of Israeli citizens, and asking the administration to consider that form of resistance as fundamentally just. She wondered, if that violence was seen as fundamentally just, what might be just against Israelis and Jews within the TMU community?

The letter, coupled with reports of other incidents on campus, caused Professor Morgenthau to become concerned for her safety and pivot her class to a virtual setting.

Professor Morgenthau also described a damaging effect on classroom discussions arising from the events. While her class had always included discussions about systemic bias and discrimination, students stopped participating in those discussions. Professor Morgenthau also told us that she had difficulties arranging guest lecturers for her class.

Professor Morgenthau emphasized that she wanted free speech to flourish on campus. However, she considered the student letter to instigate violent rhetoric against the Jewish community, which crossed the line into unacceptable conduct, particularly as the signatories were law students – and therefore future lawyers.

Professor Morgenthau expressed that she still believes in the mission LASL is trying to fulfill, and hoped that the administration would make clear that racist or discriminatory language would not be tolerated, and ensure consistency in the application of its policies to all groups.

Jewish Employee Community Network

We met with representatives of the Jewish Employee Community Network (JECN), which was established in response to a rising number of antisemitic incidents across the Greater Toronto Area. The founder of JECN felt that TMU had not provided sufficient supports for Jewish staff and students in response to these incidents. Upon realizing that other minority groups on campus had community networks within the University, they obtained permission to start the JECN.

Involvement with the JECN increased after October 7, because the network offered Jewish people as well as non-Jewish people a safe space to get together, console each other, and feel less isolated.

JECN members told us that the law students' letter had contributed to their feelings of isolation, fear, pain, and powerlessness after October 7. Some Jewish employees moved to remote work because they felt so unsafe on campus. As well, some were concerned about wearing visible markers that would identify them as Jewish, such as the kippah or a Star of David, or being identified as Jewish because of their names. In a written submission to the External Review, the JECN said, "*Certainly, most of us would not wear visible signs of our faith at this time or moving forward, even if it would be common for us otherwise to do so.*"

This submission emphasized that, for many JECN members, the law students' letter of October 20 confirmed "*that TMU is at best an unwelcoming place for Jewish people and at worst a place prone to systemic antisemitism that is being tacitly if not overtly supported at various levels of the university. We are concerned for the present and future state of antisemitism on campus.*"

The JECN introduced their overarching concerns as follows:

First, we are concerned for our immediate safety and security. Second, we are concerned about the long-term welfare of our community as some people have recently become emboldened to express themselves in ways that are hostile towards Jewish community members, and that constitute microaggressions, or even overt antisemitism. It is our view that one of the most significant ways to remedy this issue will come from the actions of university leadership.

The JECN interpreted the letter as condoning and praising Hamas's attacks on October 7; endorsing the horrific violence of those attacks as an acceptable form of "Palestinian resistance"; and expressing hatred for Israel and denying its existence. A member told us that, "*For many Jews, including myself, these statements are a direct denial of my history, lineage, and identity, and is an antisemitic attack and threat to my existence as a Jew and that of my people and community.*" The JECN felt that the letter was the product of an environment that sanctions antisemitism.



According to the JECN member, *“No community, or ethnic group, or any individual should be subjected to this kind of rhetoric, and there is serious concern that this letter acts as a call to action for those who go on to harm the people targeted by the letter.”*

The JECN is advocating for an *“unambiguous statement calling out antisemitism in all the forms it is showing up across campus”*; education and training on antisemitism for the university community; and meaningful consequences *“for those who perpetrate hate crimes against Jewish people on campus.”*

Jewish Faculty Network at TMU

We met with several members of the JFN-TMU. They came together in November 2023 to form a chapter of the national Jewish Faculty Network (JFN). The JFN’s guiding principles include: supporting open and robust discourse and dialogue, including critique around the state of Israel; opposing the IHRA definition of antisemitism; and *“ensuring that voices speaking in solidarity with Palestinians and Palestine are not silenced or censored on campuses.”*

The JFN-TMU seeks to promote the existence of a diversity of Jewish voices on campus, and to ensure that this diversity of voices is acknowledged and heard. They also wish to support and stand in solidarity with their Palestinian, Muslim, and Arab colleagues and students, including the law students who signed the letter and the faculty who support them. In these respects, they see their members as important stakeholders at the University.

Prof. Shiri Pasternak explained that *“one of the biggest issues that we’re confronting is that Jewish organizations are speaking on behalf of all Jewish people.”* As Prof. Pasternak described the group:

We are part of a Jewish left that is finding each other right now and attempting to organize a united front against organizations that seek to represent our perspectives and weaponize our grief and our trauma from what happened on October 7.

The fact that she and other members were so deeply impacted by October 7 made them feel even more obligated to speak out.

Prof. Nadya Burton discussed the group’s understanding of the discomfort, and feelings of fear and lack of safety, that many Jews at TMU and elsewhere have been experiencing. Yet she said it is imperative that antisemitism not be inappropriately used to describe these experiences, *“and that we save accusations of hatred and antisemitism for the very real ways it’s showing up.”* JFN-TMU encouraged us to critically and cautiously examine what safety means, to accept that discomfort is not unsafety, and to understand that it is not the university’s job to protect students from feelings of discomfort.

While JFN-TMU members did not necessarily endorse the content of the law students' letter, they did not believe it was antisemitic. They acknowledged that words can be misinterpreted, and come out more strongly than intended, during "*moments of intense injustice and anger and fear.*" They did not believe the students should be disciplined for the letter, and were "*deeply concerned*" about how "*the students have already been punished.*"

Prof. Burton said their group has a "*high degree of tolerance and generosity of spirit for the very intense and sometimes imperfect ways in which people might speak out*" especially in a "*moment of intense emotional and political reckoning.*" When students speak out in a way that is difficult for some people to hear, the JFN-TMU's perspective is to "*lean into learning, repair, and education rather than punitive measures.*"

The JFN-TMU offered to help TMU move forward and create opportunities for more nuanced conversations, e.g. through educational initiatives, but underscored that this is long-term work that cannot be accomplished with one-off workshops or teach-ins.

Special Envoy Deborah Lyons

We met with, and received written comments from, Deborah Lyons, Canada's Special Envoy on Preserving Holocaust Remembrance and Combatting Antisemitism.

Special Envoy Lyons has been engaging with universities since October 7. She highlighted the important role of universities in demonstrating leadership and fostering dialogue during challenging times; educating students about the complex issues involved in discourse about the Middle East; and ensuring space for student engagement, debate, and protest.

Special Envoy Lyons described the letter as a "clear example of an expression of opinion that crosses the line."

In the Special Envoy's view:

A university should provide moral clarity for students during a time of crisis based on democratic and pluralistic values.

Universities must provide a safe space where students can learn, debate and maintain civil discourse that does not incite hate or discriminate against any minority group.

Part of the Special Envoy's mandate is "*to advocate for a broader understanding, adoption and implementation of the IHRA definition of antisemitism in Canada,*"¹³⁶ and she told us

¹³⁶ Government of Canada, "[Canada's Special Envoy on Preserving Holocaust Remembrance and Combatting Antisemitism](#)" (modified April 9, 2024).

that university campuses need more education around the IHRA definition of antisemitism. She also recommended that universities adopt the IHRA definition, to “*provide clarity for all parties as to the difference between criticism of Israeli government policy and demonization and delegitimization of the Jewish state.*” The Special Envoy is helping to develop a national handbook on the IHRA definition.

Centre for Israel and Jewish Affairs

We met with and received a written memorandum from the CIJA Legal Task Force.

Since October, CIJA has been supporting Jewish students at Lincoln Alexander and their allies.

CIJA described the letter as “*an astonishingly antisemitic statement of hate and intolerance that contributed to an already unsafe environment for Jewish law school students, staff, and faculty*”, and submitted that the signatories’ accusations “*had the effect of dehumanizing and delegitimizing Israelis and Jews living outside Israel. Phrases such as apartheid, colonialism, and racism contribute to this strategy of vilification.*”

In CIJA’s view, the student letter violated the Code by creating a “poisoned environment” for Jewish law students, faculty, and staff, contrary to TMU’s Discrimination and Harassment Prevention Policy. CIJA highlighted particular concerns about the letter:

The statements by these law students promulgate the disturbingly false narrative that the State of Israel has no right to exist, is not a country, and is a racist endeavour. While it is possible to criticize Israel and not be antisemitic, antisemitism is indisputably present when Israel is delegitimized and Jewish self-determination is questioned through the very right of a country to exist.

The statement “support all forms of resistance” is one of the most insidious assertions because it masks what Hamas wrought on October 7, 2023. Hamas did not just kill, rape, and dismember innocent civilians. Hamas also called for worldwide violence against Jews. In supporting “all forms of resistance,” the signatories are justifying any and every action to push for the elimination of the State of Israel and the Jewish people.

While not asking the External Reviewer to “*to take a side in this conflict or, indeed, to hold an opinion on the conflict*”, CIJA emphasized that “*words matter*” and submitted that the “*student signatories engaged in discriminatory rhetoric*” against their Jewish colleagues. As a path forward, CIJA emphasized “*community engagement, education, training, and reconciliation*” including individualized and community-wide training on antisemitism; a “*task force to combat antisemitism*”; and an increased focus on respectful dialogue within the law school curriculum.



On this point, CIJA submitted:

We recommend that the law school seek ways to elevate the voices of its Jewish, Israeli, Muslim, Arab and Palestinian students, staff, and faculty who are committed to mutual understanding and respectful dialogue. The “silent majority” should be encouraged to become the vocal majority and should be sought for leadership (in place of those voices that loudly seek to engage in inflammatory rhetoric and misinformation and sow division). This will contribute to repairing harm to the law school’s reputation.

Mark Sandler and the Honourable Harry LaForme

CIJA’s submissions were endorsed by Ontario lawyer Mark Sandler and the Hon. Harry LaForme. Mr. Sandler and Mr. LaForme provided a joint “written deputation” which stated in part:

Because the Letter rejects the very existence of a Jewish state in Israel and characterizes it as a settler colony, it demonizes all Jews who are Zionists (the overwhelming majority of Jews) without distinction and thus is antisemitic in effect or purpose.

The Letter’s support for “any forms of resistance and liberation” can only reasonably be interpreted as support for the October 7 massacre and the indiscriminate torture, killing, sexual abuse and abduction of women, children, the elderly, civilians, and even peace activists. Also, “any forms of resistance and liberation” can only be interpreted as support for the repetition of such acts of resistance as promised by Hamas.

Mr. Sandler and Mr. LaForme were concerned about the letter’s impact on freedom of speech at TMU and elsewhere:

Sadly, the theme that “pro-Palestinian voices” are widely suppressed is also seriously flawed. We accept that some pro-Palestinian voices have been silenced even when they do not transcend speech that is protected in law. We also accept that anti-Islamic hate crimes and hate speech have taken place and should be denounced — hence, the need for the respectful dialogue initiative discussed below.

But unfortunately, some have used freedom of speech as a sword rather than a shield. They allege suppression of pro-Palestinian voices without differentiating between protected speech and hate speech or speech that has poisoned the school environment. Indeed, some professors plead freedom of speech to support views they accept, while suppressing pro-Israeli speech.

Some legitimately contend that there has been the weaponization of freedom of speech, academic freedom and assertions of being silenced. Mr. LaForme has been told that a number of Indigenous faculty members and students of the University of Toronto feel silenced by the strong pro-Palestinian voices. It is reasonable to believe that Indigenous voices are being silenced [at] TMU too.

The act of silencing legitimate, even unpopular speech, rather than speech that promotes hatred means that the existence of such silenced voices does not come to your attention. These voices have effectively been erased.

Mr. Sandler and Mr. LaForme adopted CIJA’s position that the letter breached the Code.

Inspired by treaty principles, Mr. Sandler and Mr. LaForme emphasized accountability and dialogue as the way forward. They have been working to implement respectful dialogue and educational initiatives on campuses and in professional settings across the country; to provide “*mentors in the profession to those students who feel at risk or marginalized by events since October 7*”; and “*to involve Muslim and Jewish lawyers in their own dialogues.*”

Independent Jewish Voices Canada

Independent Jewish Voices Canada (IJV) “is a grassroots organization grounded in Jewish tradition that opposes all forms of racism and advocates for justice and peace for all in Israel-Palestine.”¹³⁷ IJV members shared their personal experiences in activism and education. Citing their 2021 report *Unveiling the Chilly Climate: The Suppression of Speech on Palestine in Canada*, they also shared their extensive academic expertise on the asymmetrical scrutiny given to pro-Palestinian speech, including in academic settings.

Judy Rebick, former Sam Gindin Chair in Social Justice and Democracy at TMU, told us about moderating and speaking at “A Teach-In for Palestine” at TMU in October, which she described as a beautiful meeting – despite some of the criticism it had received online.

IJV members situated the student letter within a long history of student anti-war activism, going back to the Vietnam War era. They submitted that the letter had to be considered in this broader context. Regarding the asymmetrical attention often given to pro-Palestinian expression, which they viewed as a longstanding issue, they remarked that there had been an inquiry into the letter but not the response to the letter.

IJV expressed that the legal community’s reaction to the letter reflects badly on the profession, and that threatening the existence of the TMU law program is the opposite of how universities should be approaching these issues.

¹³⁷ Independent Jewish Voices Canada, “About IJV”: <https://www.ijvcanada.org/about-ijv/>.

Yet IJV also understood that trauma was propelling many of the more extreme reactions to the letter, with people responding from the gut and perhaps thinking better of it later.

In IJV's view, the letter used "*controversial*" language, but the controversies fall within legitimate political debate for example around issues such as anti-colonialism, resistance, and what it means to be a country. IJV members questioned why these topics could not be discussed and debated, much like the phrase "*so-called Canada*" is allowed to be discussed and debated. When students use formulations that may be considered problematic, the answer in IJV's view is to educate and support them – not attack or marginalize them.

IJV did not consider the letter to be antisemitic. They cautioned that antisemitism should be defined carefully, and not weaponized so as to condone Palestinian oppression.

The weaponization of antisemitism was of particular concern to IJV. Members noted that the credibility of some organizations' data on antisemitism may be affected by the use of the IHRA definition and examples, which can inappropriately result in criticisms of Israel being tracked and reported as incidents of antisemitism. They submitted that the IHRA definition of antisemitism is not appropriate for this reason. Indeed, IJV member Prof. Sheryl Nestel worked on the Jerusalem Declaration, which was drafted to present an alternative to the IHRA definition and allow for a broader scope of discourse, describing it as "*one of the most incredible experiences I have ever had.*"

Prof. Jillian Rogin, who is currently doing a PhD on hate speech legislation, tied the controversy over the letter to a larger context of criminalization of speech (noting, for example, the introduction of Bill C-63 in the House of Commons). Prof. Rogin urged us to imagine the level of criminalization of dissent that would occur if saying something like "Free Palestine" were to be considered hate speech. In Prof. Rogin's opinion, universities should be taking the lead in pushing back on efforts to restrict expression, including expression about Palestine.

Like the Jewish Faculty Network, the IJV was concerned about organizations that purport to represent all Jewish people when there is such a diversity of voices and ideologies within the Jewish community. At the same time, they were heartened that voices like theirs and JFN's have been growing stronger.

9.3 Stakeholders from Arab and Muslim communities

The period since October 7 has been a time of pain and trauma for Arab and Muslim communities as well. Not only have community members been processing their grief over the war in Gaza, but many have been facing anti-Palestinian and anti-Muslim racism in their personal lives, and experiencing widespread repercussions for speaking out about Palestine. These sentiments were remarkably similar amongst the stakeholders we met with.

Within the TMU community, we met with the Muslim Law Students' Association and the Muslim Employee Community Network, which represents Muslim employees at TMU. We also met with external stakeholders Amira Elghawaby, Canada's Special Representative on Combatting Islamophobia; the Arab Canadian Lawyers Association; and the Canadian Muslim Lawyers Association. We extend special thanks to the Arab Canadian Lawyers Association and the Canadian Muslim Lawyers Association for accepting our meeting invitations.

Muslim Law Students' Association

We met with representatives of the MLSA. Like many other students, they told us about choosing Lincoln Alexander because of its diversity, and its promise to be different from other law schools.

They shared stories about their own and their families' experiences, and how their obligation as Muslims to seek justice and fight oppression inspired them to attend law school. This obligation has also shaped their commitment to the Palestinian cause, which they described as "*not a Muslim issue*" but a "*humanitarian issue*."

They told us about their tireless advocacy for students after October 7, when Muslim and non-Muslim students were reaching out to the MLSA for support even though this was beyond the MLSA's official role. They divided this time period into three parts: October 7, when the world witnessed the Hamas attacks and its aftermath, including a rapidly rising civilian casualty rate in Gaza; October 20, when the letter became public; and post-October 20, when the backlash from members of the legal profession, members of the public, and members of the law school administration ensued.

We heard about the October 18 meeting between the MLSA and members of the Lincoln Alexander administration. At that meeting, the MLSA raised concerns about increased Islamophobia and anti-Palestinian racism, and harmful rhetoric, on campus. They had spoken to the law school administration about protections for all students; however, students felt that their concerns were not being heard, and although the administration was sympathetic, they did not see any immediate action to protect students.

The MLSA also found themselves supporting students who participated in the letter, stating: "*We stand by our students as they exercise their Charter-protected right to express political opinions and strive to be social activists.*"



They were particularly concerned about academic institutions and donors policing what students can and cannot say, and imposing a “*one strike, you’re out*” policy.

MLSA members emphasized that students have wanted to have difficult conversations about the conflict, and about the letter itself. But the backlash to the letter from the public, legal field, and the law school administration caused a severe silencing and reprisal that made those conversations impossible, especially for those who wanted to express Palestinian solidarity: “*Our students are unsure of how they can engage in social justice activism with the kind of criticism, silencing, and even doxxing that they’re experiencing.*” Students felt silenced, scared, and helpless.

The MLSA cited the serious impacts of the law school administration’s response to the letter on students’ mental health, their academic performance and engagement, their employment opportunities, and their personal relationships.

In particular, the MLSA was not satisfied by the administration’s inaction regarding the hate email and death threats that students were receiving. The MLSA advocated for University IT to place filters on student email accounts to block those messages.

The MLSA noted that Muslims are a minority in the legal profession, and Muslim students do not necessarily have a significant number of allies who can speak openly and freely in their support. This placed even more responsibility on the MLSA to support Muslim students given the widespread marginalization, systemic Islamophobia, and discrimination facing their community. The MLSA was grateful that the Canadian Muslim Lawyers’ Association reached out and offered support.

Moving forward, the MLSA hopes there will be a way for dialogue where students can have tough conversations, explore different perspectives, and continue to be advocates for justice.

Muslim Employee Community Network

We met with representatives of the Muslim Employee Community Network (MECN), which was formed in response to the 2017 Quebec City mosque shooting. The network focuses on building community across TMU’s multicultural and multifaceted community of Muslim employees. They support colleagues in navigating their Muslim identities at work (finding prayer space, for example). They also provide social and networking opportunities.

The MECN says the most valuable thing they provide is a safe space for Muslim employees to be who they are: where they do not have to explain their facial hair, what they are eating or not eating, or how they dress. As one member put it, “*To be in a room of people who get it, it’s the most powerful thing.*”

MECN members described the difficulty of seeing racist and Islamophobic narratives applied to discourse about the Israel-Palestine conflict, which can often conflate human rights issues with religious ones – e.g. by labelling supporters of Palestinian human rights



as antisemitic. We heard that this harmful bias serves to dehumanize Muslims and “*paint us all with the same brush.*” Members described being pulled into political discussions whether they wanted to be or not, which contributed to feelings of unsafety — and fear of employment-related repercussions for those who did decide to speak out.

The MECN told us about a recent rise in incidents of Islamophobia and racism, both on and off campus, leading many community members to fear for their safety. The MECN even worked with campus security to host a self-defence workshop. With TMU being a commuter school, members — particularly those who are visibly Muslim — were feeling scared to take the subway, and reported looking over their shoulder when going to the mosque.

Members pointed to at least two “TMU Safe” alerts that had been circulated on campus when pro-Palestine protests were occurring or forthcoming. One notice from October 2023 referred to “antisemitic demonstrations.” While there were multiple protests happening around that time, with protesters taking various positions on the conflict, only the pro-Palestinian events were flagged as a security risk. To the MECN, this was potentially an example of unconscious bias.

MECN members were very concerned about the students involved with the open letter, and wondered what would happen to their degrees and livelihoods. They were hurt and saddened by rumours that the students were being blacklisted by the legal community, and by the lack of empathy in the public reaction to the letter.

They urged us to apply principles of cultural competence, transparency, and empathy to the conduct of the External Review. When asked about possible recommendations, the MECN recommended that TMU leaders receive anti-Islamophobia training, in order “*to make TMU’s campus safer and more inclusive.*”

Amira Elghawaby, Special Representative on Combatting Islamophobia

Special Representative Elghawaby, like Special Envoy Lyons, described this time as a critical moment for universities, with so many students from various communities feeling unsafe on their campuses.

In her extensive experience, she said she had never seen an environment so charged. She noted that dialogue has given way to binary-type positions along the lines of “*you’re either with us or against us.*” This environment has had a particular chilling effect on young people trying to figure out how to articulate their solidarity with Palestinians. Many have experienced the damaging effects of being called antisemitic, and faced retaliation for their positions.

Special Representative Elghawaby hoped universities could preserve their ability to educate young people, “*as messy as it might be.*” She noted that, if students are “*too frightened to talk about contentious issues, that means we are not preparing them for the leadership that we hope they will take in our society.*”



When considering how to bring people together in dialogue, Special Representative Elghawaby’s advice was to “*look for the peacemakers.*”

Arab Canadian Lawyers Association

The Arab Canadian Lawyers Association (ACLA or “the Association”) is a national association that provides professional support for the Arab legal community, and advocates on behalf of Arab communities in Canada. Since its formation in 2005, ACLA has been immersed in anti-racism advocacy. We learned more about this work via the Association’s report on Anti-Palestinian Racism (APR) from April 2022,¹³⁸ which provides a framework to understand the systemic attempts to discredit advocacy for Palestinian rights. This report describes APR as “*a form of anti-Arab racism that silences, excludes, erases, stereotypes, defames or dehumanizes Palestinians or their narratives.*”¹³⁹

ACLA noted that anti-Palestinian racism is often conflated with Islamophobia, although the two are distinct. The Association also urged us to recognize that anti-Palestinian racism is not a new phenomenon arising from the most recent conflict, but rather a longstanding issue that has come to the forefront since October 7. Indeed, ACLA’s report was published more than a year before the events of October 7, 2023. When that report came out, ACLA recalled people taking screenshots and being relieved to finally see their experience reflected in writing. “*I can’t believe a report is describing how I felt my entire life*” was a common sentiment.

One example of anti-Palestinian racism, according to the report, is when Palestinians and their allies are assumed to be “*inherently antisemitic.*” We heard that these problematic assumptions have caused a chilling effect amongst would-be advocates, leading them to maintain silence or self-censor when publicly discussing or advocating for Palestine, out of fear that they will be subjected to professional or personal reprisals.

The Association believes that the IHRA definition of antisemitism further perpetuates anti-Palestinian racism by equating criticism of Israel with antisemitism. Indeed, ACLA, alongside Independent Jewish Voices and the Jewish Faculty Network, is currently intervening in a judicial review application to make submissions on anti-Palestinian racism, and the misuse of allegations of antisemitism.

ACLA noted that Palestinian voices are rarely heard in the public sphere, where antisemitism is discussed with a greater frequency. They remain concerned about systemic attempts to silence or erase pro-Palestinian speech. Through the Association’s

¹³⁸ Dania Majid for the Arab Canadian Lawyers Association, [*Anti-Palestinian Racism: Naming, Framing and Manifestations*](#) (April 2022).

¹³⁹ [*Anti-Palestinian Racism: Naming, Framing and Manifestations*](#) at 17.



outreach to other law schools, they learned that “*the chilling effect permeated every single campus in Ontario*” and not just TMU.

ACLA has observed a general reluctance within the legal community to include Palestinian and/or Arab perspectives, to celebrate events like Arab Heritage Month, or to host panels featuring Arab perspectives.

In times of conflict, ACLA has observed that legal institutions often publish “*one-sided*” statements that have the effect of erasing, dehumanizing, or smearing Palestinians.

ACLA considered the student letter of October 20 to be an attempt to discuss and analyze the facts underlying the ongoing conflict, which is what the legal community usually encourages law students to do. It was also seen as an attempt to rehumanize Palestinians.

The Association was particularly concerned about the response and backlash to the letter from the broader legal community, and viewed this as another example of wider systemic attempts to suppress Palestinian speech and advocacy. ACLA defended the students’ right to express their own political opinions, and was dismayed by the fact that many in the legal community had publicly shamed, doxxed, blacklisted, or called for the expulsion of the letter’s signatories.

ACLA was concerned about the legal community’s treatment of the respondent students, many of whom are members of vulnerable communities. The Association urged TMU to recognize anti-Palestinian racism and, if invited, offered to support the law school in responding to this issue. ACLA’s hope for moving forward is that the students’ participation in the letter does not prevent them from meeting their law society licensing requirements.

Canadian Muslim Lawyers Association

CMLA was founded in 2001 to support Muslim lawyers. They offer networking, mentorship, and job coaching opportunities; host social events; put on professional development sessions and conferences; and engage in advocacy, including several court interventions. They work closely with Muslim law students’ associations across the country.

The months since October had been challenging for the CMLA. We met with them during Ramadan, and one member told us that Ramadan is normally a “*month of joy*” but this year it was “just filled with tears.”

Back in October, an immediate issue for the CMLA had been the “one-sided” statements that many law firms issued. One member said that “*lawyers of all ages and stages came to us feeling silenced, feeling alone, not feeling represented, and wanting us to do something.*” In response, the CMLA wrote a letter to several law firms expressing concerns.



The CMLA noted that law firms have been touting equity and diversity principles and pointed out that, if firms are going to do that, they need to understand how statements about the Middle East conflict will impact Palestinian and Muslim employees, and supporters of the Palestinian cause.

After October 7, the CMLA also became involved with individual cases where lawyers were being silenced for their pro-Palestinian comments. We heard that the Muslim Legal Support Centre, an independent organization that began as a CMLA pilot project, experienced a “surge” of employment law intakes, relating to articling students and lawyers who had been disciplined, threatened with discipline, or asked to apologize for pro-Palestinian commentary.

Law students started approaching the CMLA as well, saying that they were being silenced, receiving hate comments on social media, and experiencing incidents of Islamophobia. One CMLA member told us, *“In these academic spaces you would hope that there’s more room for academic discussions and for dissent. Unfortunately, that’s not what we’ve been seeing.”*

The CMLA told us that the reaction to the Lincoln Alexander students’ letter was “unheard of”, given the rhetoric from influential members of the legal community and their efforts to damage the students’ legal careers. The MAG attestation was cited as a particularly disappointing aspect of the legal community’s response.

CMLA representatives said it was possible to disagree with some of the language in the letter while still maintaining a dialogue about the issues. They found it hard to tell students, who are learning how to engage in critical dialogue and dissent, that *“on this one issue you can’t have this academic discussion, you have to stay silent.”*

When asked for ideas on recommendations, the CMLA suggested that it will not be possible to “get everybody in a room” while the war is still happening, because people are in too much pain. They reminded us about the humanity of the situation in Gaza: *“Especially as lawyers, we tend to get on our laptop and write letters to each other but we forget the real humanity of all this.”*

Down the road, the CMLA thought an opportunity for dialogue, perhaps led by a trusted professor, would allow the students who participated in the letter to rebuild trust, and start to move forward:

When you break down what [they] want, they want to be respected by the legal community, they all need jobs – that’s what they want. And they want to be able to express their opinions without fearing being silenced and being discriminated against.

The CMLA commended the students for standing up for what they believe in, and hoped for a positive outcome.



Part 10.0

SUMMARY OF FINDINGS

10.0 SUMMARY OF FINDINGS

This part of the report summarizes the External Reviewer’s decision-making and uses first-person pronouns for that reason.

In summarizing my findings, I will first address whether the students’ participation in the letter breached the Code. Secondly, I will consider whether the letter should have been characterized as antisemitic. Finally, I will briefly discuss the distribution of the letter.

10.1 Was there a Breach of the Code?

The University’s complaint and the Terms of Reference require me to determine whether any TMU student who participated in the letter engaged in conduct that does not meet the community standards in Section 6 of the Code. If I were to find a breach of community standards, then sanctions could be assigned.¹⁴⁰

After careful consideration, I have concluded that the students’ participation in the letter, while damaging and hurtful, was nonetheless saved from sanction as representing a valid exercise of their freedom of expression, in accordance with the University’s Statement on Freedom of Speech.

This conclusion flows from a process of deductive reasoning, beginning with the relevant Code provisions.

Section 6 sets forth a “non-exhaustive list of conduct that does not meet the University’s community standards.” This list contains 7 categories:

- Violence
- Harassment
- Disrupting or Interfering with University Operations
- Conduct that Breaches the Law
- Damage to University and Community Members’ Property
- Conduct that Breaches University Policies and Procedures
- Abuse of the Code or Other University Policies

¹⁴⁰ Regarding sanctions, see Section 10 of the Code and Section 4 of the Procedures.

Each category cites various examples. Any reasonable consideration of these categories, informed by their respective examples, would confirm that the only potentially applicable category is “Harassment”, in Section 6.2.

For example:

- The respondent students did not commit any acts of violence or threaten violence, nor does the letter itself threaten violence.
- The respondent students’ participation in the letter had the unfortunate result of disrupting the law school experience for themselves and their classmates, but not in a manner that would constitute “disrupting or interfering with university operations” that rises to the level of a breach under Section 6.3.
- Their participation did not rise to the level of breaching the law. The types of conduct listed in Section 6.4 (e.g. possessing weapons; theft; selling illegal drugs; breaking into University premises) also constitute offences under the *Criminal Code*. Here, there is no allegation, and no indication whatsoever, that the respondent students committed a criminal offence or otherwise engaged in conduct that could constitute a crime.
- they did not damage any property by participating in the letter; and
- they did not abuse the Code or other University policies.

Turning to the one potentially applicable category, Harassment, here is its full text:

A non-exhaustive list of conduct that does not meet the University’s community standards includes:

[...]

6.2 Harassment, such as:

Unwelcome remarks, words, actions or contact; verbal abuse; non-verbal abuse; unwelcome gestures; distributing malicious or untrue information about community members – unwanted physical or verbal behaviour that is known or should be known to be unwelcome, humiliating, threatening, or demeaning. This includes conduct that arises from, or is motivated, in whole or in part, by bias, prejudice or stereotypes of a community member or groups’ personal characteristics as defined in the Discrimination and Harassment Prevention Policy. The conduct may include a serious one-time or ongoing/repeated incident.

Notably, the concept of harassment typically connotes an element of repetition, but here, the Code contemplates “a serious one-time...incident.”

Another noteworthy aspect is that the Code’s approach to harassment includes a mental element – that is, that the behaviour “is known or should be known to be unwelcome, humiliating, threatening or demeaning.”

Does participating in this letter represent a serious one-time incident constituting harassment that was known or should have been known to be unwelcome, humiliating, threatening or demeaning? I conclude that it does not, for two interrelated reasons:

- Firstly, this provision of the Code must not be read in isolation. Instead, it must be informed by TMU’s robust policies protecting free speech.
- Secondly, in this context, intention must be considered a fundamental component of harassment, especially when the allegation involves a one-time incident. Here our meetings with the respondent students come to the forefront. Analyzing the letter in this context makes it clear that, regardless of how poorly the letter may have been drafted or how aggressive its tone, the participants did not intend to inflict the harm it caused. They did not intend to harass.

I will now address each of these factors in more detail.

TMU’s Freedom of Speech Policies

TMU’s Freedom of Speech Policies — particularly the Statement on Freedom of Speech — recognize that free speech must be highly protected and is indeed of fundamental importance in a university setting: the very “*raison d’être*” of a university.

TMU’s Statement on Freedom of Speech specifically addresses the issue before me – namely, when the University will act to sanction campus speech:

While [TMU] is committed to freedom of thought and the free exchange of ideas, it is also recognized that there are limits to the right of free speech that are recognized in the Charter of Rights and Freedoms. The University may act when speech on campus is used in a way that is itself unlawful or prevents the lawful exercise of free speech by others. [emphasis added]

Note that the circumstances in which the university would act are limited to two, neither which apply here. Specifically, participating in the letter was not unlawful; nor did it prevent the lawful exercise of free speech by others. This provision therefore becomes of fundamental importance to my interpretation of the Harassment category set out in 6.2 of the Code.

It is also noteworthy that this provision is consistent with Ontario’s August 30, 2018 directive on “Upholding Free Speech on Ontario’s University and College Campuses”¹⁴¹ which, as a minimum standard, identifies these same two categories as the only avenues for limiting speech.

The Respondent Students’ Intentions

This aspect of my analysis requires a detailed review of the letter, particularly its most troubling aspects.

It has been extraordinarily difficult to reconcile the sincere intent of the participants in the letter against its impact on many members of the TMU and wider communities.

There is no doubt that the letter was drafted in an assertive manner that made it open to misinterpretation. Even some of the participants have described the tone as “aggressive” or “harsh”. The timing of the letter, coming so closely on the heels of the horrific October 7 attacks, contributed to the way the letter was received by many Jewish readers in particular.

My team and I have made every effort to honour the impact of the letter on those who were hurt, offended, and even fearful after reading it. At the same time, it is accepted that the participants in the letter did not intend this result. In fact, the vast majority did not participate in the drafting, and of those, a subset did not read it carefully. Their objective was to engage the LASL administration in a dialogue about its response to the attacks of October 7 and why, in these students’ view, a response to Israel’s historical and current treatment of and violence against Palestinians was also required.

I also recognize that certain phrases and concepts in the letter — like “*so-called Israel*” and “*settler colonialism*” — were intended to apply lessons from the Canadian context that LASL students have studied in their Aboriginal and Indigenous law classes, even if the comparison is inexact and may not be endorsed by all Indigenous people in Canada.

The drafters also sought to apply their understanding of international law when using terms like *occupation*; *apartheid*; *war crimes*; *resistance*; and *genocide*. Students and stakeholders — including LASL faculty members — pointed out that the use and debate of such terms are within the bounds of established academic, legal and policy discourse, particularly in international law, and they provided supporting resources to that effect.¹⁴²

¹⁴¹ Ontario, Office of the Premier, “Upholding Free Speech on Ontario’s University and College Campuses” (August 30, 2018): <https://news.ontario.ca/en/backgrounder/49950/upholding-free-speech-on-ontarios-university-and-college-campuses>.

¹⁴² See e.g. Alex Neve et al, “Palestinian rights advocacy and international law”, *Moving Rights Along* (December 2023): <https://www.alexneve.ca/blog/palestinian-rights-advocacy-international-law>.

(Notably, many of these contentious concepts in the letter appear in *The Wall Between*, whose authors recently facilitated listening circles for LASL students.)¹⁴³

Unfortunately, the letter did not define these terms, leaving the readers to assume or imply the meaning. Nor did the letter explicitly acknowledge the existence of reasonable counterarguments. These shortcomings significantly weakened the letter as an advocacy tool (as discussed in the next section of the report) but do not put the students in breach of the Code.

Other parts of the letter come closer to crossing the line. Without the context provided by the students, and without the reference to “ Hamas’ recent war crimes killing 1300 Israelis”, the letter’s “support” for “all forms of Palestinian resistance and efforts toward liberation” — and its demand for LASL administration to recognize “Palestinian resistance as fundamentally just and as a means of survival for Palestinians” without defining what “resistance” was intended to mean — could be seen as justifying the October 7 attacks.

The concluding paragraph of the letter is particularly concerning:

We assert that Hamas’ attack was a direct result of Israel’s 75-year-long systemic campaign to eradicate Palestinians, and that Israel is therefore responsible for all loss of life in Palestine. To say otherwise is to accept and endorse colonialism in all its forms: there would be no death if not for Israel’s apartheid regime. [bolding and italics in letter]

This paragraph can reasonably be read as minimizing the role of Hamas and its counterparts in orchestrating and perpetrating the attacks of October 7. At the very least, and most generously, it is misguided.

In hindsight, as I have said, many of the signatories acknowledged that the letter could have been better worded, particularly to soften the tone, remove ambiguities, and clarify that the participants did not seek to justify the Hamas attacks. Some participants expressed real regret and remorse that their intentions in signing the statement had been misconstrued as support for the attacks on innocent Israeli civilians. However, the wording of the letter left itself open to that misinterpretation, which invoked true hurt and fear amongst many Jewish students, faculty, staff, and community members.

Despite this, I am satisfied that the harm caused by the letter was unintended.

¹⁴³ Raja G. Khouri & Jeffrey J. Wilkinson, *The Wall Between: What Jews and Palestinians Don’t Want to Know About Each Other* (Northampton, Massachusetts: Olive Branch Press, 2023). They refer to “the reality that the impact of Zionism on Palestinians mirrors most of the key features of settler-colonialism: displacement of the indigenous population, confiscation of property, and a state structure that is systemically discriminatory” (page 52). They also dedicate all of chapter 6 to “Resistance”.

One could argue that participating in the letter would nonetheless constitute harassment as envisaged in the Code because the participants “should have known” the harm it would cause. Yet this interpretation would fly in the face of TMU’s Statement on Freedom of Speech which, as noted, permits all speech on campus unless it “is itself unlawful or prevents the lawful exercise of free speech by others.” To the extent there is ambiguity in how the Statement on Freedom of Speech interacts with the Code, this ambiguity must be resolved in favour of those in jeopardy of sanction under the Code. Here, that is the respondent students, who were exercising their freedom of speech by participating in the letter.

I have also considered whether the participant students created a “poisoned environment” for Jewish students at LASL, within the meaning of the Discrimination and Harassment Prevention Policy. If so, this could constitute Harassment under Section 6.2 of the Code.

There is a high threshold for holding a student responsible for creating a “Poisoned Environment”:

Where harassing or discriminatory behaviours are sufficiently severe and/or pervasive and cause significant and unreasonable interference to a person’s study or work environment, they may be deemed as creating an intimidating, hostile and offensive work or study environment. A poisoned environment can interfere with and/or undermine work or academic performance and can cause emotional and psychological stress not experienced by other employees or students. As such, it results in unequal terms and conditions of employment or study and prevents or impairs full and equal enjoyment of employment or educational services, benefits, or opportunities. Although a person may not be the target of the behaviours, a person may feel the effects of certain harassing or discriminatory behaviours at their place of work or study.

Behaviours which allegedly create a hostile environment for work and/or study but which are not on the basis of a prohibited ground of discrimination do not fall within this Policy. They may fall within a collective agreement and/or some other complaint or resolution process at the University.

A particular challenge of applying this definition to the facts is that, in many ways, the environment became “poisoned” for the entire LASL community after the letter was released, especially once the administration issued its statement, and the public backlash took on a life of its own. Respondent students and stakeholder students alike had remarkably similar experiences: they commonly talked about feeling a chill in the atmosphere, losing friends, feeling shunned, staying silent in class, and worrying about their academic and professional futures.

Again, I readily acknowledge that many Jewish students at LASL experienced an “intimidating, hostile, and offensive” study environment in the Fall of 2023, for a variety of reasons of which the letter was a significant one. But so, too, did the respondent students experience an “intimidating, hostile, and offensive” study environment after the letter became public and the backlash set in.

Many of the respondent students are racialized and visibly Muslim women. Given the extreme and vitriolic backlash they endured for exercising their freedom of expression, I would find it particularly unfair to hold them responsible for creating a poisoned environment and thereby committing Harassment.

For all these reasons, participating in this letter cannot be considered Harassment as contemplated in 6.2 of the Code.

At the same time, I am mindful that the actionable categories enumerated in Section 6.2 are deemed to be “non-exhaustive.” This raises the question of whether participating in this letter could still breach the Code as representing a non-enumerated category of actionable conduct. In my view, it cannot. Simply put, this is a greatly flawed letter that caused significant unnecessary harm. However, the harm was unintentional. In the face of the appropriately robust free speech rights we have articulated, there is no other avenue to raise participation in this letter to the level of sanctionable conduct.

Therefore, my conclusion is that the students who participated in the letter did not breach the Code. As such, no sanctions can be assigned.

I would add that, even if sanctions might otherwise have been appropriate, the students have already endured enough. They have been under the jeopardy of this review, subjected to a barrage of threatening hate mail, their personal information has been doxxed, and they have likely lost existing and future professional opportunities.

It’s time for them to now move forward in their legal education and their professional careers.

10.2 Was the Letter Antisemitic?

Recall that the LASL administration’s October 23 statement labelled the letter as antisemitic: “*We unequivocally condemn the sentiments of Antisemitism and intolerance expressed in this message.*”

This assertion had a serious impact on the respondent students. It contributed to the backlash to the letter. The allegations of antisemitism, in particular, misconstrued the participants’ intentions and branded them in a manner that has resulted in negative personal and professional consequences. As such, it is incumbent on me to consider this issue.

After researching the issue and receiving varied submissions on this point, I am of the view that the letter should not have been characterized as antisemitic. There is no universally accepted definition of antisemitism, but (as discussed), this External Review has understood antisemitism as “the manifestation and expression of discrimination against Jewish people”, in accordance with the TMU OVPECI’s approach.

It is accepted that the participants intended the letter to criticize the historical treatment of Palestine and Palestinians, and Israel’s past and present military efforts – not to criticize Judaism or Jewish people more generally. The letter does not refer to Jewish people or Judaism, nor does it explicitly or implicitly equate Israel’s actions with those of Jewish people, whose views do not necessarily or universally align with those of the state of Israel. Furthermore, the letter does not expressly refer to Zionism.

It is also accepted, however, that challenges to Israel can sometimes be interpreted as a call for the eradication of Israel as a homeland for Jewish people. The letter left itself open to that kind of misinterpretation.

The definitions we have reviewed have a common core, which is that antisemitism involves expressing hatred towards, discriminating against, or stereotyping Jewish people or the Jewish religion. Generally speaking, the common core of these definitions does not, and should not, consider criticism of actions of the state of Israel, including the military actions of Israel, to be antisemitic.

In concluding that the letter was not antisemitic, and that the LASL Administration negatively impacted the participant students in characterizing the letter as antisemitic, I can also empathize with the Administration. The events of October 2023 posed a monumental challenge for the Lincoln Alexander community. We have also heard throughout this process that the meaning of antisemitism is a contested topic on which many reasonable people vehemently disagree. I accept that, when administrators were presented with this letter and faced with the public outcry about it, it was seen as an existential crisis for the law school that called for a prompt reaction. With hindsight, the reaction was understandable, albeit regrettable.

10.3 Drafting & Dissemination of the Letter

The evidence indicates that the letter was written by a very small group of students, probably between one and four, within the Abolitionist Organizing Collective. I have not been able to conclusively identify the author(s) of the letter, although this topic was explored during our meetings with students.

The exact circumstances of the letter being ‘leaked’ outside LASL also remain murky. However, the majority of participant students who met with us genuinely, if naively, believed that the letter would not be disseminated beyond the LASL community. They also genuinely viewed the letter as part of a dialogue with the administration and, in particular, a collective response to the administration’s email of October 11, which they interpreted as inviting conversation.

A more forensic investigation may or may not have been able to determine who exactly wrote the letter and how exactly it became public. Any such investigation would have been time-consuming and would have likely resulted in unnecessary privacy breaches. It would also have been inconsistent with the restorative approach that we adopted, which was focused on the named signatories and their experiences, with contextual input from internal and external stakeholders. In the end, I felt we had ample information to fulfill the mandate.

Part 11.0

COMMENTS ON THE LETTER AS WRITTEN ADVOCACY

11.0 COMMENTS ON THE LETTER AS WRITTEN ADVOCACY

This section of the report offers constructive comments on the letter, as a form of written advocacy. These comments are separate from the External Reviewer’s decisions under the Code.¹⁴⁴ While only a small number of students actually wrote the letter, we hope that our comments may be useful for a broader audience.

There are at least three reasons why we thought it would be helpful to critique the letter from an advocacy perspective. First, the intent of the letter was to advocate: the drafters were urging the law school to take certain steps in response to the war in Gaza. Second, the letter came from law students, who are training to become professional advocates. Third, lawyers have professional obligations of civility and zealous advocacy,¹⁴⁵ and it is important for law students to appreciate how difficult it can be to find the right balance.¹⁴⁶

Although being provocative is part of student activism, the students here professed to want a dialogue and, for that reason, more nuanced and productive language would have helped their legitimate cause.

To that end, the letter could have:

- defined some of the more contentious terms that it used, such as “settler colonialism” and “apartheid”, and explained why they were being used (with reference to authorities);
- acknowledged counterarguments, even if only to explain why the writers believed those counterarguments were not persuasive;
- morally engaged with the human impact of the October 7 attacks (the authors did characterize Hamas’s attacks as “war crimes” but otherwise gave short shrift to the devastation wrought by Hamas);
- called for the hostages taken by Hamas to be released;

¹⁴⁴ These are not offered as “recommendations” within the meaning of Section 10.1.9 of the Code, because “recommendations” are a form of sanction. Sanctions may only be assigned “following a decision that there has been a breach of community standards.” There has been no such decision here.

¹⁴⁵ See e.g. *Groia v Law Society of Upper Canada*, 2018 SCC 27 at paras 70-76; *Doré v Barreau du Québec*, 2012 SCC 12 at para 63.

¹⁴⁶ Toronto Lawyers Association, *Report on Civility and Professionalism in the Legal Profession* (December 2023): https://tlaonline.ca/uploaded/web/pdf/Civility_Professionalism_Report_Dec_2023/Civility_Professionalism_Report_TLA.pdf.

- offered to host learning opportunities for interested students;
- promoted Gaza relief efforts; and
- made more realistic demands of the administration.

Overall, there was a huge gulf between what the students genuinely intended — to show solidarity with Palestinians, support a ceasefire, and encourage LASL administration to take an unequivocal stance against the war — and how the letter landed. The letter’s aggressive and harsh tone, along with its ambiguities, ultimately distracted from its goals.

The External Reviewer will now offer a personal reflection.

A Personal Reflection from the External Reviewer

After 45 years, first as a lawyer and then a judge, I have witnessed a great deal of advocacy; some excellent, some terrible and everything in between. Perhaps it would be helpful to share some of what I have learned; what worked and what did not work. Let me start with the basics.

Whether it is in the courtroom, the classroom or simply debating with friends, advocacy is fundamentally about the art of persuasion. This involves asserting a certain set of facts in order to have people agree with you and thereby motivating them to support your position. This in turn drives positive change.

The art of persuasion involves advancing the facts as you sincerely understand them to be. This exercise requires a diligent inquiry to ensure accuracy. At the same time, the art of persuasion should not be confused with the art of intimidation, nor the art of deception. In my experience, intimidation and deception are less likely to motivate change and when they do, the outcomes are typically negative and almost always short lived.

In my view, fundamental to the art of persuasion is the responsibility to fully comprehend and then to acknowledge your opponent’s perspective. I have observed that, in recent years, this approach is being underutilized. Instead, all too often, advocates myopically obsess with their position. They do not prioritize humility, thereby disregarding their opponent’s perspective. In my view, they do so at their peril. I say this for several reasons.

First and foremost, advocates that acknowledge an opponent’s viewpoint carry much more credibility. For example, they appear more balanced and reasonable; thereby rendering their argument more compelling.

A more balanced submission is, by its very nature, a more respectful one. A more respectful submission is equally more persuasive. It also prevents unnecessary harm.

A submission that acknowledges an opponent's perspective does not make it weaker. Quite the opposite: it becomes stronger. An advocate who engages with counterarguments can, at the same time, be just as forceful, just as passionate and just as emotional, all while being inevitably more convincing.



Part 12.0

RECOMMENDATIONS

12.0 RECOMMENDATIONS

This part of our report offers recommendations from the full External Review team to help LASL and TMU move forward. The recommendations outlined here do not fall under Section 10.1.9 or any other provision of the Code. Instead, they are intended to add value to the External Review mandate, consistent with the forward-looking restorative approach our team has adopted.

We are incredibly grateful to the students and stakeholders who provided input on recommendations. Even if their recommendations have not been expressly adopted, we hope the spirit of their recommendations is still reflected.

We also acknowledge the Student Initiatives Working Group at Lincoln Alexander, which has operated parallel to and independently of the External Review. We are aware that the Working Group has provided its recommendations to the Dean's Office. Any overlap between the Working Group's recommendations and ours is a 'happy coincidence', as the saying goes.

We begin, in Part 12.1, by contextualizing our recommendations. We then propose recommendations for LASL students; LASL administration, along with the Curriculum Committee; and TMU central administration (to the extent we have misunderstood who may have jurisdiction for particular recommendations, that should not detract from their substance). We conclude with a brief word of advice for the legal community.

12.1 Contextualizing the Recommendations

Initially, we thought our recommendations would focus almost exclusively on how to bring people together. But as the process unfolded, we realized that it might be too soon — and even somewhat condescending — to tell the LASL community how to come together and heal. This is especially so given that the war in the Middle East is still ongoing, and emotions are still understandably quite raw.

We recognize that the community needs the time and space to process and grieve what has happened, and to manage their own relationships. At the same time, those who attend and work at LASL have ongoing relationships with each other, by virtue of sharing the same law school community.

Our recommendations try to thread this needle by focusing on education and reflection as much as possible.

We heard repeatedly, often desperately, from students that they “want to learn”, and they feel like that was stymied this school year. As part of their learning process, students also want to have difficult conversations. So, our recommendations had to be less about bringing people together to find consensus, and more about moving forward through disagreement.

It will be challenging to do this without LASL community members engaging in self-reflection about the multifaceted harms that have been caused by the letter, and the reactions to the letter. We know from our meetings that many in the LASL community have already been doing this commendable work. Hopefully the conclusion of the External Review will help break down any remaining barriers to this reflection.

We have focused on modest recommendations that are consistent with the scope of the External Review while seeking to honour the multitude of perspectives we heard. We have refrained from being overly prescriptive, given our assessment that LASL already has such strong foundations. The work ahead is really about “strengthening the pillars.”

12.2 Recommendations for LASL Students

We encourage students to consider the following advice.

- 1. Read petitions, open letters, statements, and other advocacy documents carefully, and in full, before signing. Assume screenshots will be taken and private documents can be made public.**

This suggestion might seem obvious, and many respondent students have already made this commitment with the benefit of their own self-reflection. However, we find it helpful to reiterate this advice, as a good reminder to all of us in the legal community, considering the prevalence of open letters and similar documents.

To be clear, we do not wish to discourage students from activism and advocacy. Rather, we encourage students to perform due diligence before doing so, including by carefully and critically reading documents before signing. Students must be mindful of the weight their signatures carry by virtue of being future members of the legal profession.

- 2. Seek out opportunities to enhance your written advocacy skills.**

There was widespread acknowledgment, even among respondent students, that the letter was imperfectly drafted. We hope that all students reflect on the potential impacts of their written advocacy and apply those reflections to their future writing.

We note that TMU Student Life and Learning Support offers a Social Justice Writing Group open to all TMU students, which may be of interest and benefit to LASL students.¹⁴⁷

¹⁴⁷ Toronto Metropolitan University, Student Life and Learning Support, “Social Justice Writing Group”: <https://www.torontomu.ca/student-life-and-learning/learning-support/writing-support/#!accordion-1603751607936-social-justice-writing-group>.

3. Get involved with the LASL community.

This may seem obvious, but it is necessary for mending the social fabric of the law school. We heard that social events were sorely lacking this year, which contributed to the chill in the atmosphere and made the events that did go ahead — like the MLSA’s iftar — even more meaningful. We hope that students will organize and attend more social events during the 2024/2025 school year and into the future, and that LASL administration will support them in doing so.

We encourage students to think creatively about the types of events that might work best for their community – perhaps students could work on art projects; collaborate with other TMU faculties; or hold their own learning circles.

Students are also encouraged to take advantage of any educational opportunities and university initiatives offered as a result of this report.



12.3 Recommendations for LASL Administration

We encourage LASL administration to consider the following suggestions.

- 1. Provide learning opportunities, with student input and involvement, on anti-Palestinian racism, anti-Muslim racism, and antisemitism, as prevalent examples of systemic discrimination.**

We heard that education is needed in these three areas in particular, and on how these issues intersect with freedom of expression. Given that education is the University's fundamental purpose, these educational opportunities should be open to *all* members of the LASL community (i.e. students; professors; staff; and administrators), with appropriate tailoring depending on the audience. These opportunities could consist of webinars, in-person 'lunch and learn' panels, symposia / conferences, etc.

We encourage LASL to leverage existing university resources, including the Racial Justice Initiative at LASL,¹⁴⁸ and the Office of the Vice-President, Equity and Community Inclusion.¹⁴⁹

Education on antisemitism should reflect the diversity of Jewish voices on campus, and we note again that the Jewish Faculty Network was willing to be consulted on this point.

- 2. Develop a “student roundtables” program.**

This initiative could be modelled after the “Martha C. Nussbaum Student Roundtables” at the University of Chicago Law School.¹⁵⁰ These roundtables “*were endowed by Professor Nussbaum in 2019 with the intent of bringing together students and faculty with diverse, and often disparate ideological viewpoints in a respectful discussion.*” The roundtables “support the University of Chicago’s longstanding commitment to free expression and open discourse”, which aligns with the commitments in TMU’s Statement on Freedom of Speech.

¹⁴⁸ Toronto Metropolitan University, Racial Justice Initiative (RJI), “The Racial Justice Initiative at the Lincoln Alexander School of Law”: <https://www.torontomu.ca/racial-justice-initiative/>.

¹⁴⁹ Toronto Metropolitan University, Office of the Vice-President, Equity and Community Inclusion, “About the OVPECI”: <https://www.torontomu.ca/equity/about-ovpeci/>.

¹⁵⁰ University of Chicago Law School, “Martha C. Nussbaum Student Roundtables”: <https://www.law.uchicago.edu/law-school-roundtables>.

3. Organize an initiative around the concept of *dissent*.

The concept of dissent is important for a law school, and we believe that studying and wrestling with dissenting opinions in court decisions can help students engage with dissenting views elsewhere in their personal and professional lives. The theme of “dissent” could form the foundation of a lecture / seminar series in an upcoming term or school year – perhaps by inviting professors to lecture on particularly significant dissenting opinions in legal history, and inviting judges to speak about the importance of dissenting opinions.

4. Commit to continued regular and transparent communications to LASL students.

Students perceived a lack of communication from the Dean’s Office, including on matters related to the fallout from the letter, such as the hate emails they were receiving. Students also sought more financial transparency around how the law school is funded, and the role of donor contributions in the overall financial makeup of the school.

We would encourage the Dean’s Office to use multiple channels for proactively communicating regular updates to students. We would also encourage the Dean’s Office to work with Operations (to the extent feasible) in order to provide students with a financial snapshot at least once a year, which could also be posted on the LASL website.

5. Establish an “issues advisory committee” with student representation.

When the letter was released, the law school went into crisis mode, apparently without an established crisis response plan. We do not want to assume that future crises will occur, but contentious issues inevitably will. For that reason, we recommend that the administration establish an “issues advisory committee” with student representation. This committee could meet regularly but also be available at short notice when issues of concern arise. These could be issues within LASL, or they could be global events.

This committee could also be responsible for advising the Dean’s Office / LASL administration on whether and when the LASL should issue statements, and how any such statements should be worded.

When responding to and advising on issues of concern, the committee should ensure that the first stakeholders to be considered are the students themselves.

6. Incentivize and support the social events we have encouraged students to initiate.

We encourage LASL administration to support our recommendation for the students to get more involved in the law school community. This may involve financial, logistical, and/or promotional support for student events, in order to maximize attendance.



7. Work to increase the diversity of faculty at LASL.

We understand that hiring faculty is a complex process, but we do encourage LASL administration to use available mechanisms to increase the diversity of full-time faculty. As a key example, students and stakeholders pointed out that there are no full-time Arab (including Palestinian) or Muslim faculty members at LASL, which does not reflect the significant constituency of Arab and Muslim students at LASL.

8. Invite leaders of the Ontario legal profession to attend a forward-looking facilitated session (or series of sessions) with members of the LASL administration.

Our review did not have the benefit of meeting with the Law Society of Ontario, the Ministry of the Attorney General, the Ontario Bar Association, or any associations of Bay Street leaders, but these are all stakeholders that could be invited to attend a facilitated session with the LASL administration.

The goal of this proposal would be to repair the damage to LASL students' placement opportunities, summer job prospects, and post-graduation employment options. As this report has concluded, the students who participated in the letter have already undergone significant punitive impacts and, going forward, should not have opportunities foreclosed to them because of the letter. Similarly, their classmates who have been blacklisted by association should not have their educational and professional careers suffer any further.

9. Review LASL's mental health supports.

We heard mixed reports about the mental health supports available at, and through, the law school. Many students praised individual staff members for their support, but students also found the standard lists tacked onto law school correspondence (and, indeed, correspondence from our team) to be performative and often inaccessible. We strongly encourage the LASL to review its practices in this regard; consider whether additional staff may be required; and ensure that supports are trauma-informed, culturally competent, accessible, and convenient.

10. Implement additional cybersecurity measures, and engage University IT and outside experts if necessary.

We have discussed the hate mail and doxxing that respondent students experienced, and LASL should take immediate steps to mitigate those kinds of risks. For example, LASL should:

- (a) Assess the naming protocol for student email addresses and consider whether the advantages of using the typical formula outweigh the risks to student privacy and safety.
- (b) Confirm that appropriate spam filters are in place.
- (c) Ensure that class schedules and locations are not posted online in any way that is publicly available.
- (d) Provide regular training for students, and perhaps other members of the LASL community, on cybersecurity, social media privacy settings, and digital hygiene.
- (e) Engage University IT and/or outside experts to identify and recommend additional cybersecurity measures.



12.4 Recommendations for LASL Administration and Curriculum Committee

Lincoln Alexander’s Integrated Practice Curriculum (IPC) already contains an impressive blend of substantive law and legal theory, technology, and social justice with practical skills.¹⁵¹ The following suggestions are intended to fit within, and supplement, the existing curriculum, consistent with our “Strengthening the Pillars” theme. Any misunderstandings about the curriculum are ours alone.

1. Consider an optional Year One practicum on social justice advocacy.

We understand that Year One is comprised of required courses, but we see the benefit in offering interested students an optional practicum / course on best practices for social justice advocacy. This could equip students to apply their legal knowledge to social justice causes; write effective and persuasive statements and news releases; engage with the media; and manage the personal and professional risks that may arise from social justice work. This kind of introduction in Year One could segue nicely into JUR 215 – Public Interest Litigation, which teaches students about “social justice campaigns.”

2. Consider a Written Advocacy Intensive for Year One (in addition to, or together with, the Oral Advocacy Intensive).

Written advocacy has been an important theme in our report. Building on the Legal Research and Writing course in the first semester of Year One, perhaps a Written Advocacy Intensive could be added to / combined with the Oral Advocacy Intensive in the second semester. We suggest that skills in written advocacy should be given the same level of priority as oral advocacy skills, at every stage of legal education and practice.

¹⁵¹ Toronto Metropolitan University, Lincoln Alexander School of Law, Juris Doctor Program, Integrated Practice Curriculum (IPC): https://www.torontomu.ca/law/program/juris_doctor_program/.

3. Enhance the Mooting and Lawyering Skills Program.

LASL already has a strong Mooting & Lawyering Skills Program, with students competing in several upper-year appellate moots and negotiation competitions.¹⁵² We encourage LASL to consider participating in (or maybe even someday creating) at least one moot where students get to argue both sides of a case, like the Davies Corporate/Securities Law Moot¹⁵³ or the International Criminal Court (ICC) Moot Competition.¹⁵⁴ The mooters could present to their classmates on ‘lessons learned’ from arguing multiple sides.

¹⁵² Toronto Metropolitan University, Lincoln Alexander School of Law, “Mooting Program”: <https://www.torontomu.ca/law/students/mooting/>.

¹⁵³ As described in University of Manitoba, UM Today, “Both Sides Know: Competing in Davies Moot an exceptional exercise in dynamic litigation training” (April 22, 2022): <https://news.umanitoba.ca/both-sides-know-competing-in-davies-moot-an-exceptional-exercise-in-dynamic-litigation-training/>.

¹⁵⁴ Pace University, Elisabeth Haub School of Law, “International Criminal Court (ICC) Moot Competition”: <https://law.pace.edu/icc>: “Perhaps the most exciting feature of the Moot, and one unique to this competition, is that each team of students will participate in three rounds of oral arguments and have the opportunity of arguing from all three perspectives, prosecutor, defence counsel and victims’ advocate.”

12.5 Recommendations for TMU Administration

Most of our recommendations are for the LASL community. However, the following suggestions are directed to TMU central administration.

1. **Pursue the educational sessions being created with Amira Elghawaby (Canada’s Special Representative on Combatting Islamophobia) and Deborah Lyons (Canada’s Special Envoy on Preserving Holocaust Remembrance and Combatting Antisemitism).**¹⁵⁵
2. **Consider amendments to the Code.**

We understand that the Code was scheduled for review in early May 2024. Whenever the Code is next reviewed, we would suggest considering amendments to:

- (a) More explicitly reconcile the Code; the Discrimination and Harassment Prevention Policy; and the Statement on Freedom of Speech.
 - (b) Clarify when and how the Code applies to written advocacy by students.
 - (c) Expressly provide for an independent external review option that would not require University decision-makers to delegate their authority, including their authority to assign sanctions.
3. **Support LASL in implementing the recommendations in Parts 12.3 and 12.4.**

¹⁵⁵ Toronto Metropolitan University, TorontoMet Today, “Coming together as a community in challenging times” (January 22, 2024): <https://www.torontomu.ca/news-events/news/2024/01/coming-together-as-a-community-in-challenging-times/>.

12.6 Advice for the Legal Community

The lawyers who fuelled the backlash against the respondent students displayed the same kind of response for which they have criticized the students: using insensitive and harsh words, rushing to judgment, and not acknowledging opposing viewpoints. They have talked about the importance of civility and respectful dialogue, without extending those empathetic sentiments to the students involved. We would encourage them, going forward, to apply their experience and wisdom in ways that support LASL students, whether through mentorship opportunities, placements, or longer-term positions.



Part 13.0

CONCLUDING REMARKS & THANKS

13.0 CONCLUDING REMARKS & THANKS

It is an honour to have conducted this External Review. We thank TMU for supporting the Review and providing us with the assistance we needed while still respecting the independence of the process. TMU's University Relations department deserves special thanks for designing the report template.

We remain humbled by the trust placed in us, and the kindness displayed by everyone we met. We owe them — especially the students — our sincerest thanks.

The lawyers who represented students in this External Review exemplify the best of the legal profession: Nicole Biros-Bolton, Breshna Durrani, Deborah Guterman, Thoby King, Michael Klug, Safia Lakhani, Dimitri Lascaris, and Jia Wang. They all made respectful, helpful, and zealous submissions for their clients, and words are not enough to express our gratitude.

We also commend the advocacy and support that organizations like the Arab Canadian Lawyers Association and the Canadian Muslim Lawyers Association offered to the respondent students, and the Centre for Israel and Jewish Affairs' advocacy and support for Jewish students. Additional thanks to Prof. Faisal Bhabha of the Osgoode Hall Law School at York University for supporting respondent and stakeholder students alike.

Last but certainly not least, we sincerely thank Prof. Hilary Evans Cameron and Prof. Joshua Sealy-Harrington, two LASL faculty members who acted as support persons for several respondent students.

There is something special about the Lincoln Alexander School of Law, in the dynamic faculty and staff it has assembled, the passionate students it has attracted, and the inspiring principles it stands for.

Our goal all along has been to help the Lincoln Alexander School of Law move forward from a difficult seven months, during a challenging time for the world. With the utmost humility, we hope this report goes some way towards achieving that goal, and helps to “strengthen the pillars” on which LASL is founded.

List of References

LIST OF REFERENCES

A. TMU Resources

Collective Agreement between the Board of Governors of Ryerson University and the Faculty Association: https://www.torontomu.ca/content/dam/faculty-affairs/rfa-collective-agreement/CA-2020-2023/TFA%20CA_2020%20to%202023_post%20reopener.pdf

Toronto Metropolitan University Act, 1977:

[https://www.torontomu.ca/content/dam/governors/documents/governance/Toronto Metropolitan University Act \(updated 2022\).pdf](https://www.torontomu.ca/content/dam/governors/documents/governance/Toronto_Metropolitan_University_Act_(updated_2022).pdf)

Toronto Metropolitan University, *Academic Plan 2020-2025:*

<https://www.torontomu.ca/content/dam/about/strategic-vision/tmu-academic-plan.pdf>

Toronto Metropolitan University, *Discrimination and Harassment Prevention Policy* (Approved November 2011):

<https://www.torontomu.ca/policies/policy-list/dhp-policy/>

Toronto Metropolitan University, *Free Speech Annual Report 2023:*

[https://www.torontomu.ca/content/dam/freedom-of-speech/Free%20Speech%20Annual%20Report%202023%20final%20\(1\).pdf](https://www.torontomu.ca/content/dam/freedom-of-speech/Free%20Speech%20Annual%20Report%202023%20final%20(1).pdf)

Toronto Metropolitan University, Freedom of Speech Policies:

<https://www.torontomu.ca/freedom-of-speech/>

Toronto Metropolitan University, Graduate Academic Calendar, “Mission and Aims of Toronto Metropolitan University”:

<https://www.torontomu.ca/graduate/calendar/about/mission-aims/>

Toronto Metropolitan University, About, “History”:

<https://www.torontomu.ca/about/history/>

Toronto Metropolitan University, Indigenous Education Council, “Toronto Metropolitan University Land Acknowledgment”:

<https://www.torontomu.ca/indigenous-education-council/land-acknowledgment/>

Toronto Metropolitan University, Lincoln Alexander School of Law, *A different kind of law school* (September 2022):

<https://www.torontomu.ca/content/dam/law/documents/law-brochure-sep-2022.pdf>

Toronto Metropolitan University, Lincoln Alexander School of Law, Juris Doctor Program, Integrated Practice Curriculum (IPC):

https://www.torontomu.ca/law/program/juris_doctor_program/

Toronto Metropolitan University, Lincoln Alexander School of Law, “Legal Clinic”:

<https://www.torontomu.ca/law/program/legal-clinic/>



Toronto Metropolitan University, Lincoln Alexander School of Law, “Lincoln Alexander School of Law’s statement in response to the Open Letter” (October 23, 2023): <https://www.torontomu.ca/law/news-events/2023/10/lincoln-alexander-school-of-laws-statement-in-response-to-the-open-letter/>

Toronto Metropolitan University, Lincoln Alexander School of Law, “Mooting Program”: <https://www.torontomu.ca/law/students/mooting/>

Toronto Metropolitan University, Lincoln Alexander School of Law, “Our Namesake”: <https://www.torontomu.ca/law/about/our-namesake/>

Toronto Metropolitan University, Lincoln Alexander School of Law, “Our Pillars”: <https://www.torontomu.ca/law/about/our-pillars/>

Toronto Metropolitan University, Lincoln Alexander School of Law, “Programs”: <https://www.torontomu.ca/law/program/>

Toronto Metropolitan University, Office of the Vice-President, Equity and Community Inclusion, “About the OVPECI”: <https://www.torontomu.ca/equity/about-ovpeci/>

Toronto Metropolitan University, Office of the Vice-President, Equity and Community Inclusion, “Anti-Muslim Racism”: <https://www.torontomu.ca/equity/resources/discourse-docs/anti-muslim-racism/>

Toronto Metropolitan University, Office of the Vice-President, Equity and Community Inclusion, “Antisemitism”: <https://www.torontomu.ca/equity/resources/discourse-docs/antisemitism/>

Toronto Metropolitan University, Office of the Vice-President, Equity and Community Inclusion, “Statement on the Conflict in the Middle East” (October 12, 2023): <https://www.torontomu.ca/equity/news/2023/10/statement-on-situation-in-the-middle-east/>

Toronto Metropolitan University, Racial Justice Initiative (RJI), “The Racial Justice Initiative at the Lincoln Alexander School of Law”: <https://www.torontomu.ca/racial-justice-initiative/>

Toronto Metropolitan University, “Ryerson University changing its name to Toronto Metropolitan University” (April 26, 2022): <https://www.torontomu.ca/media/releases/2022/04/ryerson-university-changing-its-name-to-toronto-metropolitan-uni/>

Toronto Metropolitan University, Senate, *Policy 61: Student Code of Non-academic Conduct* (Approved May 4, 2021): <https://www.torontomu.ca/senate/policies/student-code-of-non-academic-conduct-policy-61/>



Toronto Metropolitan University, Statement of Student Rights and Responsibilities (Approved at Senate April 1, 2003): <https://www.torontomu.ca/senate/documents/studentrights.pdf>

Toronto Metropolitan University, Student Life and Learning Support, “Social Justice Writing Group”:
<https://www.torontomu.ca/student-life-and-learning/learning-support/writing-support/#!accordion-1603751607936-social-justice-writing-group>

Toronto Metropolitan University, TorontoMet Today, “A commitment to our core values” (December 2, 2016): <https://www.torontomu.ca/news-events/news/2016/12/a-commitment-to-our-core-values/>

Toronto Metropolitan University, TorontoMet Today, “A new home for the Lincoln Alexander School of Law” (February 15, 2024): <https://www.torontomu.ca/news-events/news/2024/02/new-home-lincoln-alexander-school-law/>

Toronto Metropolitan University, TorontoMet Today, “Belzberg and Soliman families create scholarship for first-year law students” (April 18, 2024): <https://www.torontomu.ca/news-events/news/2024/04/belzberg-and-soliman-families-create-scholarship-for-first-year-law-students/>

Toronto Metropolitan University, TorontoMet Today, “Caring for our community in a time of crisis” (October 16, 2023): <https://www.torontomu.ca/news-events/news/2023/10/caring-for-our-community-in-a-time-of-crisis/>

Toronto Metropolitan University, TorontoMet Today, “Coming together as a community in challenging times” (January 22, 2024): <https://www.torontomu.ca/news-events/news/2024/01/coming-together-as-a-community-in-challenging-times/>

Toronto Metropolitan University, TorontoMet Today, “TMU to undertake review of recent events, increase supports for the community” (October 27, 2023): <https://www.torontomu.ca/news-events/news/2023/10/tmu-to-undertake-review-of-recent-events-increase-supports/>

Toronto Metropolitan University, TorontoMet Today, “Toronto Metropolitan University appoints the Honourable J. Michael MacDonald” (November 7, 2023): <https://www.torontomu.ca/news-events/news/2023/11/tmu-appoints-honourable-j-michael-macdonald/>

Toronto Metropolitan University, University Planning Office, “Enrolment and Faculty Counts” (last updated August 10, 2023): <https://www.torontomu.ca/university-planning/data-statistics/key-statistics/>



Toronto Metropolitan University, University Planning Office, *Frequently Asked Questions* under “What is the ethnic background of Toronto Metropolitan University students?”: <https://www.torontomu.ca/university-planning/about/faq/#!accordion-1561387043762-what-is-the-ethnic-background-of-toronto-metropolitan-university-students->

B. Case Law

BC Civil Liberties Association v University of Victoria, 2016 BCCA 162, leave to appeal to SCC refused, 2016 CanLII 82919 (SCC)

Canada (Attorney General) v JTI-Macdonald Corp., 2007 SCC 30

Commission scolaire francophone des Territoires du Nord-Ouest v Northwest Territories (Education, Culture and Employment), 2023 SCC 31

Doré v Barreau du Québec, 2012 SCC 12

Greater Vancouver Transportation Authority v Canadian Federation of Students — British Columbia Component, 2009 SCC 31

Groia v Law Society of Upper Canada, 2018 SCC 27

Hart v McMaster University, 2021 HRTO 241

Pridgen v University of Calgary, 2012 ABCA 139

R v Butler, [1992] 1 SCR 452

R v Keegstra, [1990] 3 SCR 697

SAIA v Carleton University, 2013 HRTO 112

Saskatchewan (Human Rights Commission) v Whatcott, 2013 SCC 11

UAlberta Pro-Life v Governors of the University of Alberta, 2020 ABCA 1

Ward v Quebec (Commission des droits de la personne et des droits de la jeunesse), 2021 SCC 43

Zaki v University of Manitoba, 2021 MBQB 178

C. Constitutional and Legislative Documents

Bill 166, the *Strengthening Accountability and Student Supports Act, 2024*: https://www.ola.org/sites/default/files/node-files/bill/document/pdf/2024/2024-04/b166rep_e.pdf.

Canadian Charter of Rights and Freedoms, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11.

Human Rights Code, RSO 1990, c H.19

D. Government Documents

Government of Canada, *Building a Foundation for Change: Canada's Anti-Racism Strategy 2019-2022*: <https://www.canada.ca/en/canadian-heritage/campaigns/anti-racism-engagement/anti-racism-strategy.html>

Government of Canada, "[Canada's Special Envoy on Preserving Holocaust Remembrance and Combatting Antisemitism](#)" (modified April 9, 2024)

Government of Canada, "[Preserving Holocaust remembrance and combatting antisemitism](#)" (modified April 8, 2024)

House of Commons, 44th Parliament, 1st Session – Vote No. 658, Sitting No. 290 (March 18, 2024): <https://www.ourcommons.ca/members/en/votes/44/1/658>

Ontario, Office of the Premier, "Upholding Free Speech on Ontario's University and College Campuses" (August 30, 2018): <https://news.ontario.ca/en/backgrounder/49950/upholding-free-speech-on-ontarios-university-and-college-campuses>

Order in Council 1450/2020 (October 26, 2020): <https://www.ontario.ca/orders-in-council/oc-14502020>

E. International Materials

International Court of Justice, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*: <https://www.icj-cij.org/case/192> including the Order of 26 January 2024, Document Number 192-20240126-ORD-01-00-EN: <https://www.icj-cij.org/node/203447>

Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, Mission report, [Official visit of the Office of the SRSG-SVC to Israel and the occupied West Bank 29 January – 14 February 2024](#) (March 4, 2024)

United Nations, Office for the Coordination of Humanitarian Affairs: OCHA, "Reported Impact Since 7 October 2023": <https://www.ochaopt.org/>



United Nations, Office of the High Commissioner for Human Rights, “Israel/oPt: UN experts appalled by reported human rights violations against Palestinian women and girls” (February 19, 2024): <https://www.ohchr.org/en/press-releases/2024/02/israelopt-un-experts-appalled-reported-human-rights-violations-against>

United Nations, Office of the High Commissioner for Human Rights, “Onslaught of violence against women and children in Gaza unacceptable: UN experts” (May 6, 2024): <https://www.ohchr.org/en/press-releases/2024/05/onslaught-violence-against-women-and-children-gaza-unacceptable-un-experts>

United Nations, Office of the High Commissioner for Human Rights, “UN experts deeply concerned over ‘scholasticide’ in Gaza” (April 18, 2024): <https://www.ohchr.org/en/press-releases/2024/04/un-experts-deeply-concerned-over-scholasticide-gaza>

United Nations, Security Council, “Press Statement on Humanitarian Workers and Threat of Famine in Gaza” (April 11, 2024): <https://press.un.org/en/2024/sc15658.doc.htm>

United Nations, Security Council, “Reasonable Grounds to Believe Conflict-Related Sexual Violence Occurred in Israel During 7 October Attacks, Senior UN Official Tells Security Council” (March 11, 2024): <https://press.un.org/en/2024/sc15621.doc.htm>

F. Secondary Sources and Other Materials

AFP, “Israel social security data reveals true picture of Oct 7 deaths” (December 15, 2023): <https://www.france24.com/en/live-news/20231215-israel-social-security-data-reveals-true-picture-of-oct-7-deaths>

Alison Braley-Rattai & Kate Bezanson, “Un-Chartered Waters: Ontario’s Campus Speech Directive and the Intersections of Academic Freedom, Expressive Freedom, and Institutional Autonomy”, *Constitutional Forum*, Vol. 29: No. 2 (2020): https://journals.library.ualberta.ca/constitutional_forum/index.php/constitutional_forum/article/view/29400

Eileen Antone & Grace-Edward Galabuzi (Co-chairs) et al, *Final Report of the Taskforce on Anti-Racism at Ryerson* (January 2010) at 8: https://www.torontomu.ca/content/dam/confronting-anti-black-racism/pdfs/final-report-of-the-taskforce-on-anti-racism-at-ryerson-january-2010_FINAL-s.pdf

Arab Canadian Lawyers Association, *Anti-Palestinian Racism: Naming, Framing and Manifestations* (April 25, 2022), prepared by Dania Majid

Associated Press, “Israeli army finds bodies of 3 hostages in Gaza killed at Oct. 7 music festival” (May 18, 2024): <https://apnews.com/article/israel-hamas-war-gaza-hostages-shani-louk-a37e4fd656b46be36c4c659a9c2aac7d>

B'nai Brith Canada, "B'nai Brith Canada Asks TMU Law School to Expel Terror Apologist Students" (October 23, 2023): <https://www.bnaibrith.ca/bnai-brith-canada-asks-tmu-law-school-to-expel-terror-apologist-students/>

Lindsay Borrows, "Dabaadendiziwin: Practices of Humility in a Multi-Juridical Legal Landscape", (2016) 33:1 Windsor Yearbook on Access to Justice 149, 2016 CanLII Docs 183, <https://canlii.ca/t/79d>

Building a Stronger and More Inclusive Ontario: Ontario's Anti-Racism Strategic Plan: <https://www.ontario.ca/page/building-stronger-and-more-inclusive-ontario-ontarios-anti-racism-strategic-plan#section-6>

Cambridge Dictionary, "doxing" / "doxing": <https://dictionary.cambridge.org/dictionary/english/doxing>

Jamie Cameron, "Giving and Taking Offence: Civility, Respect, and Academic Freedom" in James L. Turk, ed, *Academic Freedom in Conflict: The Struggle Over Free Speech Rights in the University* (Toronto: James Lorimer & Company Ltd., 2014)

CAUT Policy Statement on Academic Freedom (approved May 1977 and reviewed February 2019): <https://www.caut.ca/about-us/caut-policy/lists/caut-policy-statements/policy-statement-on-academic-freedom>

Paula Chakravartty & Vasuki Nesiah, "Is This the End of Academic Freedom?", *New York Times* (April 5, 2024)

Kunal Chaudhary, "Ontario government screened law students who signed pro-Palestine letter", *The Breach* (December 21, 2023): <https://breachmedia.ca/ontario-government-screened-law-students-who-signed-pro-palestine-letter/>

Committee to Protect Journalists, "Journalist casualties in the Israel-Gaza war" (May 18, 2024): <https://cpj.org/2024/05/journalist-casualties-in-the-israel-gaza-conflict/>

Lars Dolder, "Thousands march in Tel Aviv to call for a hostage deal", *New York Times* (May 19, 2024): <https://www.nytimes.com/2024/05/19/world/middleeast/thousands-march-in-tel-aviv-to-call-for-a-hostage-deal.html>

Chile Eboe-Osuji, "Calibrating Proportionality and Self-Defense in Gaza", *Lawfare* (December 7, 2023): <https://www.lawfaremedia.org/article/calibrating-proportionality-and-self-defense-in-gaza>

Chile Eboe-Osuji, "International Courts as the Last Hope for Humanity", *Just Security* (January 24, 2024): <https://www.justsecurity.org/91448/international-courts-as-the-last-hope-for-humanity/>

Chile Eboe-Osuji, “International Law & The War in Gaza” [lecture slides provided to External Review]

Chile Eboe-Osuji, “South Africa’s ICJ Case Was Too Narrow”, *Foreign Policy* (February 2, 2024): <https://foreignpolicy.com/2024/02/02/south-africa-israel-icj-gaza-genocide-hamas/>

Matt Gutman et al, “IDF’s conduct, ethics under scrutiny following soldiers’ social media posts” ABC News (April 17, 2024): <https://abcnews.go.com/International/idfs-conduct-ethics-scrutiny-soldiers-social-media-posts/story?id=109035616>

Harvard Kennedy School Carr Center for Human Rights Policy, “Israel and Gaza and Its Repercussions on American Campuses: A Conversation with Peter Beinart” moderated by Mathias Risse (January 25, 2024), available on YouTube: <https://youtu.be/9RtHNFcjKRM?si=hq9xmnvpYRmX-1LM>

“Hate crime reports up 132% amid Israel-Gaza conflict, Toronto police chief says”, *CBC News* (October 19, 2023): <https://www.cbc.ca/news/canada/toronto/hate-crime-rise-israel-gaza-1.7001288>

Hearing Palestine Initiative at the University of Toronto, *From the River to the Sea: Palestine will be Free: A Primer on History, Context, and Legalities in Canada* (December 2023)

Peter Hogg & Wade Wright, *Constitutional Law of Canada*, 5th ed Supp, Volume 2 (Toronto: Thomson Reuters, current to Rel. 1, 7/2023)

Janet Hurley, “Legal community calls out the backlash against TMU law students behind pro-Palestinian letter”, *Toronto Star* (November 6, 2023): https://www.thestar.com/news/gta/legal-community-calls-out-the-backlash-against-tmu-law-students-behind-pro-palestinian-letter/article_f7ef4702-cef3-5ddc-a663-00ca7e4b8d33.html

Independent Jewish Voices Canada, “About IJV”: <https://www.ijvcanada.org/about-ijv/>

Independent Jewish Voices Toronto & York Region, [Facebook post](#) (November 9, 2023)

International Holocaust Remembrance Alliance, “Working definition of antisemitism”: <https://holocaustremembrance.com/resources/working-definition-antisemitism>

Jerusalem Declaration on Antisemitism: <https://jerusalemdeclaration.org/>

Jewish Faculty Network, “Jewish Faculty Against IHRA” (Spring 2021): <https://jewishfaculty.ca/jewish-faculty-against-the-ihra-defn/>

Raja G. Khouri & Jeffrey J. Wilkinson, *The Wall Between: What Jews and Palestinians Don't Want to Know About Each Other* (Northampton, Massachusetts: Olive Branch Press, 2023)

Matthew Lapierre & Erika Morris, “Protesters at McGill pro-Palestinian encampment are staying put despite warning for them to leave”, *CBC News* (April 29, 2024): <https://www.cbc.ca/news/canada/montreal/encampment-mcgill-pro-palestinian-1.7187787>

Law and Political Economy (LPE) Project at Yale Law School, “A Call for Institutional Fairness on Palestine” (November 2023): <https://lpeproject.org/blog/a-call-for-institutional-fairness-on-palestine/>

Howard Levitt, “Students who signed petition condoning Hamas should have to answer for their decision”, *Financial Post* (November 3, 2023): <https://financialpost.com/fp-work/students-who-signed-petition-condoning-hamas-must-face-consequences>

Sheldon Levy, “Why I defended freedom of speech on campus”, *Toronto Star* (January 26, 2018): https://www.thestar.com/opinion/contributors/why-i-defended-freedom-of-speech-on-campus/article_ca41ef28-7467-528e-8e59-9b167b513cf6.html

Nick Logan, “Why the UN changed its death tolls of Palestinian women and children killed in Gaza”, *CBC News* (May 13, 2024): <https://www.cbc.ca/news/world/gaza-women-children-death-toll-1.7203167>

Mash Koh Wee Kah Pooh Win / Standing Strong Task Force, *Standing Strong Task Force Report & Recommendations* (August 18, 2021): https://www.torontomu.ca/content/dam/next-chapter/Report/SSTF-report-and-recommendations-Aug_24_FINAL.pdf

Rachel Mendleson, “Inside the crisis at TMU’s law school”, *Toronto Star* (January 13, 2024): https://www.thestar.com/news/investigations/inside-the-crisis-at-tmus-law-school-it-started-with-a-letter-of-support-for/article_9ca1edcc-b179-11ee-a665-b7861590be34.html

Sheryl Nestel & Rowan Gaudet for Independent Jewish Voices Canada, *Unveiling the Chilly Climate: The Suppression of Speech on Palestine in Canada* (October 2022): https://www.ijvcanada.org/wp-content/uploads/2022/10/Unveiling-the-Chilly-Climate_Final-compressed.pdf

Alex Neve et al, “Palestinian rights advocacy and international law”, *Moving Rights Along* (December 2023): <https://www.alexneve.ca/blog/palestinian-rights-advocacy-international-law>

Nova Scotia Barristers’ Society, “Mi’kmaq Land Acknowledgement”: <https://nsbs.org/>



Ontario Trial Lawyers Association President's Message, "Message to OTLA members denouncing Open Letter by TMU Law Students" (Member Bulletin of Friday November 3, 2023) [link no longer available]

"Open Letter to the Legal Community on Pro-Palestine Speech" (undated [Google Doc](#))

Pace University, Elisabeth Haub School of Law, "International Criminal Court (ICC) Moot Competition": <https://law.pace.edu/icc>

Eyal Press, "The Problem with Defining Antisemitism", *The New Yorker* (March 13, 2024): <https://www.newyorker.com/news/persons-of-interest/the-problem-with-defining-antisemitism>

Arthur Ripstein (Chair) et al, *Report of the University of Toronto Antisemitism Working Group* (December 2021): <https://people.utoronto.ca/wp-content/uploads/2023/02/Report-of-the-Antisemitism-Working-Group-1.pdf>

Mark Sandler, "An Open Letter from Canada's Law Community", Change.org petition (October 31, 2023): <https://www.change.org/p/an-open-letter-from-canada-s-law-community>

Malaka Shwaikh & Rebecca Ruth Gould, "[The Palestine Exception to Academic Freedom: Intertwined Stories from the Frontlines of UK-Based Palestine Activism](#)" (2019) 42:4 *Biography* 752

Merlyn Thomas, "Israel Gaza: What Gaza's death toll says about the war", *BBC Verify* (December 20, 2023): <https://www.bbc.com/news/world-middle-east-67764664>

Toronto Lawyers Association, *Report on Civility and Professionalism in the Legal Profession* (December 2023): https://tlaonline.ca/uploaded/web/pdf/Civility_Professionalism_Report_Dec_2023/Civility_Professionalism_Report_TLA.pdf

James L. Turk, Mark Gabbert & Penni Stewart, "Open Letter to Canadian University and College Presidents", Centre for Free Expression Blog (December 12, 2023): <https://cfe.torontomu.ca/blog/2023/12/open-letter-canadian-university-and-college-presidents>

James L. Turk, "Universities, the Charter, Doug Ford, and Campus Free Speech", *Constitutional Forum*, Vol. 29: No. 2 (2020): https://journals.library.ualberta.ca/constitutional_forum/index.php/constitutional_forum/article/view/29398

University of Chicago Law School, "Martha C. Nussbaum Student Roundtables": <https://www.law.uchicago.edu/law-school-roundtables>



University of Manitoba, UM Today, “Both Sides Know: Competing in Davies Moot an exceptional exercise in dynamic litigation training” (April 22, 2022):
<https://news.umanitoba.ca/both-sides-know-competing-in-davies-moot-an-exceptional-exercise-in-dynamic-litigation-training/>

uOttawa Faculty of Law JLSA and MLSA Joint Statement (October 2023):
https://www.oba.org/CBAMediaLibrary/cba_on/pdf/ottawauletter_JLSA_MLSA.pdf



Appendices

APPENDICES

- A. Frequently Asked Questions about the External Review – December 1, 2023; updated January 9, 2024
- B. Guidance Document for Student Meetings (attaching University’s letter of November 6, 2023 and Terms of Reference) – January 17, 2024
- C. Post-Town Hall Reference Guide for LASL Students – January 31, 2024



Appendix A



Frequently Asked Questions about the External Review

December 1, 2023 – UPDATED January 9, 2024

1. *What are the terms of your external review?*

Toronto Metropolitan University (“**TMU**”) has engaged me to review an open letter that was sent to the administration of the Lincoln Alexander School of Law (“**LASL**”), and posted online, on October 20, 2023. The open letter demanded that LASL administration take certain actions in response to the conflict in the Middle East.

A copy of my Terms of Reference is appended.

2. *What is the complaint?*

TMU has asked me to determine whether the TMU students who participated in the open letter may have breached the Student Code of Non-academic Conduct (the “**Code**”) and, if so, to determine what outcomes under the Code might be appropriate, in accordance with Section 1.1 of the Procedures to the Code. The respondents are the students who participated in the open letter.

3. *Why did you email the LASL students when you did?*

I recognize that there is no opportune time to communicate about this kind of matter. However, I wanted to email the LASL students at the earliest possible opportunity, before the exam period and the holiday break. To be clear, I do not expect students to meet with me before the end of this term. The students who participated in the open letter have been asked to respond to me by January 10, 2024, in order to set up meetings for later in January. I hope this will give them an appropriate period of time to reflect on their participation, and to arrange supports.

UPDATE: The deadline for students to respond has been extended to January 12, 2024.

4. *What is the expected timeline for the process?*

In January 2024, I hope to meet with the students who participated in the open letter. After that, it will take some time to prepare my report. I hope to complete my report in Spring 2024, if at all possible. This general timeline is subject to adjustment as the process unfolds, and requires flexibility. For example, the Code allows for matters to be resolved by Alternative Dispute Resolution (“**ADR**”), and I am willing to explore ADR options if appropriate in the circumstances.

5. *What about the 30-day deadline in the Student Code of Non-academic Conduct?*

This deadline has been extended, given the complexity of the matter and the need to take the time to get the process right. Extensions are permitted under Section 15 of the Code and Section 1.2 of the Procedures.

6. *Will you provide a report at the end?*

Yes. Please see below regarding confidentiality.

7. *Will your report be confidential?*

No. I expect that TMU will make my report public. However, the public report would not include any confidential information about the students involved in the external review. Nor would the public report explain which outcomes may be recommended for any individual student.

Decisions related to individual students will be provided to those students on a confidential, one-on-one basis.

8. *When will your report be completed?*

I hope to complete my report during Spring 2024 but, at this point, I am unable to confirm an exact completion date. This general timeline is subject to adjustment as the process unfolds.

9. *With whom will you be meeting?*

I hope to meet with the students who participated in the open letter, whether they did so by name or anonymously. I also hope to meet with several TMU student and staff groups. Because this is not an open-ended inquiry, my focus is on meeting with those who are directly and substantially impacted by the events under review. Additional meetings may be arranged on a case-by-case basis.

10. *Can students identified as signing the open letter meet with you in a group?*

Yes, if an appropriate request is made and it is reasonable in the circumstances to meet in a group.

11. *Can these students meet with you virtually as opposed to in person?*

Yes, if an appropriate request is made and it is reasonable in the circumstances to meet virtually.

12. *For students meeting with you, what kind of meeting can they expect?*

The purpose of the meetings will be to discuss the open letter, the external review process (including the possibility of ADR), and the potential outcomes.

13. *Is it mandatory for students to participate?*

No, but it is strongly encouraged. Accommodations will be available.

14. *How can students prepare for their meetings?*

Students will receive a high-level guide ahead of time to help them prepare.

15. *Can students bring a lawyer when they meet with you?*

There is no requirement to have a lawyer present. The purpose of the meeting will be a fact-finding exercise, and the student will be expected to speak on their own behalf. However, a student may request to bring a lawyer. In that case, they will be asked to provide their lawyer's name and contact information ahead of time.

Students may also choose to engage Advocates, as contemplated in Section 4.1 of the Code.

16. *Can students bring a friend when they meet with you?*

Yes. A student is expected to speak on their own behalf, but they are welcome to bring a friend or other support person with them. However, this support person cannot act as a representative for the student, and the support person must not be otherwise involved in the external review process (see Section 4.32 and Section 5.13 of the Code). The student will be asked to provide their support person's name and contact information ahead of time.

17. *Are students subject to sanctions as a result of the external review?*

Yes, it is possible that students may be subject to sanctions as a result of the external review. See Section 10 of the Code and Section 4 of the Procedures.

New FAQs as of January 2024

18. *Will your review go beyond the open letter dated October 20, 2023?*

This review is concerned with the open letter dated October 20, 2023 and signed by 72 students from LASL. TMU has asked me to determine whether any TMU student who participated in the open letter has, in doing so, engaged in conduct that does not meet TMU's community standards as set out in Section 6 of the Code. While other events at TMU may inform the context of my review, I will not be making determinations with respect to any conduct other than participation in the open letter.

19. *Why did your letter to LASL students on November 29, 2023 mention the students who signed the letter anonymously?*

The Terms of Reference refer to the 72 students from LASL who participated in the open letter of October 20, 2023. Even though many of these students participated anonymously, they are still subject to the complaint that I have been asked to review.

I understand that this aspect of the letter may have caused some confusion and concern, and I want to be clear that I am not looking for students to act as whistleblowers or tell on each other. At the same time, it is possible that, during the course of my review, I will learn the identities of students who participated anonymously. Like the students who signed by name, they too are entitled to and will receive an opportunity to be heard. This is also why I wanted to offer those students an opportunity to proactively reach out and schedule a meeting with me.

20. *Will your report include the names of any of the students involved, including those who may have originally signed anonymously but whose identities are later learned?*

No. The report will not include names, identifiers, or other confidential information about the students involved in the external review. Nor will the report explain which outcomes may be recommended for any individual student.

Decisions related to individual students will be provided to those students on a confidential, one-on-one basis. This information will not be released publicly, but will be shared confidentially with TMU administration.

21. Are students permitted to bring both a representative and a support person when they meet with you?

Yes. Students will be asked to provide their support person's and representative's name and contact information ahead of time.

22. Will there be an opportunity for students to ask further questions about the process?

Yes. Students are welcome to send questions about the external review process to [REDACTED]. Where other students may benefit from the answers to those questions, they will be added to future versions of this FAQ document.

Additionally, I am planning a virtual town hall for LASL students on Thursday January 18, 2024 (likely from 1pm – 2pm Eastern, but please stay tuned). This town hall will be held via Zoom webinar and will be moderated by LALSS President James Noronha. Attendance will be limited to LASL students.

The goal of the town hall is to talk about what students can expect for their meetings with me, and to walk through the guidance document that will be shared the week of January 15, 2024. That said, all LASL students are more than welcome to attend the town hall, regardless of their involvement with the open letter.

Students are asked to kindly submit their questions for the town hall in advance. Questions can be submitted by emailing [REDACTED]. The names of students who raise questions will not be shared during the webinar, and will have no bearing on any findings made during my review.

23. What is an external review? Is it a review or an investigation?

According to the Terms of Reference for this review, I have been appointed to conduct the complaint resolution process in Section 8 of the Code (and Section 2 of the Procedures). This includes an investigation component and a decision-making component.

The Terms of Reference also require me to assign outcomes under Section 10 of the Code (and Section 4 of the Procedures), if I determine that it is appropriate to do so.

At this stage, I cannot risk pre-judging any aspect of this matter by speculating on whether I will deem it appropriate to assign outcomes and, if so, what those outcomes may be.

24. What is the role of Stewart McKelvey?

After I retired as Chief Justice of Nova Scotia, I became Counsel at Stewart McKelvey, which is a regional law firm in Atlantic Canada. I work out of the Halifax office.

For the TMU external review, I am the sole external reviewer, and all decisions will be my own. However, I have a small team of lawyers at Stewart McKelvey helping me with this process.

25. *Can respondents communicate with each other during the review process?*

Section 7 of the Code requires those involved in the complaint resolution process “to keep confidential, outside the people supporting them, any personal information they learn in this process, to ensure the integrity of the Investigation and decision-making process.”

These confidentiality requirements are designed to protect the integrity of the investigation, and they also protect the respondents.

That said, students should feel free to continue to rely on each other for support. I recognize that this review, along with events both on- and off-campus, are creating anxiety for many. A supportive community is important for mental health, and I encourage everyone to show kindness and compassion to each other.

26. *Will written submissions be permitted? If so, from whom?*

At this stage, I am not requesting that students provide written submissions. Individual requests may be considered on a case-by-case basis.

27. *Can faculty or staff accompany the students when they meet with you?*

Yes, if the faculty or staff member is acting as a “representative” as defined in Section 4.22 of the Code, or a Support Person under Section 4.32 of the Code.

28. *Are you going to take any further steps to investigate the names of anonymous signatories who do not self-report?*

No. However, if, during my meetings, I learn the names of anonymous signatories who are students at LASL, I will ask any such student to meet with me.

29. *Will there be any repercussions for students who are invited to meet with you and choose not to?*

While participation is strongly encouraged, students can decide whether or not they will meet with me. However, if a student elects not to participate in the review, outcomes may still be assigned to them.

30. *Are respondents compelled to share information? (e.g. emails; social media posts)*

I am authorized under the Code “to collect documentary, electronic, video, or other evidence” but students are not compelled to share this information. That being said, I would appreciate the benefit of students’ open and honest participation so that the full benefit of this review can be realized.

31. *What is the standard of review?*

I will be making decisions at first instance, so there is no “standard of review” akin to when a court reviews an administrative decision. The first-instance question I have been asked to review is whether the TMU students who participated in the open letter may have breached the Code.

32. *Is there a right to an appeal? If so, what is the process?*

If, at the end of my review, I determine that outcomes should be assigned to individual students, those students will be advised of any appeal rights at the same time they are notified of the outcome.

General information on appeal processes can be found in Section 11 of the Code and Section 5 of the Procedures.

33. *In addition to Policy 61 (the Code), are there other policies, guidelines, or statements that will be considered during this process?*

Section 3.4 of the Code explains the relationship between the Code and other University policies, including the Discrimination and Harassment Prevention Policy. The Values and Principles in Section 5 also refer to other University policies including, at Section 5.5, the University's Statement on Freedom of Speech. Students who meet with me are welcome to discuss these and any other TMU policies, guidelines, or statements that may be relevant.

Please note: This document may be updated from time to time. Any revised versions will be circulated to LASL students via email.

Appendix B

GUIDANCE DOCUMENT FOR STUDENT MEETINGS Issued January 17, 2024

The sessions will be:

- one hour, give or take
- structured as a discussion rather than a formal interview or hearing
- a chance for the student to be heard, so I can understand the objectives and impacts of the open letter / statement from the student's perspective

Please reach out to [REDACTED] to schedule a meeting or to ask questions. Please let me know if you require any accommodations for the meeting.

To help students prepare for their meetings, this document outlines the kinds of questions and topics that I hope to cover when I meet with students in the coming weeks. I do not expect students to come with formal or written answers to these questions.

1. Please tell me a bit about yourself, and what led you to study at the Lincoln Alexander School of Law (LASL).
2. What is your awareness of TMU's [Student Code of Non-academic Conduct](#)? How and when did you learn about it?
3. Do you know about the "[Pillars](#)" of LASL, and what do they mean to you?
4. How did you become involved with the letter of October 20, 2023?
5. What was your motivation or intention in signing the letter? What did you hope to accomplish?
6. What was your expectation regarding how the letter would be distributed or shared?
7. Did you have any concerns about the letter at the time?
8. Did you feel any pressure to participate in the letter?
9. What have you thought about since participating in the letter?
10. What was the impact of the letter on you personally? Have you experienced any personal or professional consequences as a result of the letter?
11. In your view, what was the broader impact of the letter?
12. Why do you think the letter might have caused others to feel harmed or concerned?
13. TMU's [Statement on Free Speech](#) says that the University "embraces unequivocally the free exchange of ideas and the ideal of intellectual engagement within a culture of mutual respect. It is a powerful ideal that encompasses every dimension of the University." What do you think this statement requires of you?

14. Upon reflection, is there anything you might have done differently?
15. What concrete steps do you think would help LASL move forward? Is there a particular form of education, support, policy change, etc. that you think would be helpful?
16. Is there anything else you would like to add?

We understand that this is a challenging time for the LASL community. Please find below some resources that are available to you:

- [Good2Talk](#) is a 24/7 phone and text line that is capable of providing real-time support.
- [Keep.meSAFE](#) is a remote counselling service that specializes in student mental health support and provides 24/7 access to licensed counsellors through telephone and mobile chat: **1-844-451-9700** (or through the Student Support [formerly My SSP] mobile app from the Apple Store or Google Play).
- [The Gerstein Centre 24/7 Distress Line](#) is a free, confidential support line for anyone experiencing an emotional crisis and needing immediate assistance: call **416-929-5200**.
- [The Centre for Student Development and Counselling](#) offers referrals and resources to students, including individual and group counselling: email cstdc@torontomu.ca or call **416-979-5195**.
- [Student Care](#) at TMU offers support to students navigating a variety of complex factors while they study, including academic, financial, and physical and mental health challenges: email studentcare@torontomu.ca.
- At LASL, you may wish to engage with **Anita Balakrishna**, Assistant Dean Student Programming & Equity (email: [REDACTED]); **Salima Fakirani**, Director of Student Engagement & Experience (email: [REDACTED]), or **Pratik Nair**, Manager of Health & Wellness, and Academic Success (email: [REDACTED]) for support.

Attached for convenience are the letter from TMU that initiated my review, and my Terms of Reference.



Office of the
General Counsel
& Board Secretariat

November 6, 2023

The Honourable J. Michael MacDonald
Stewart McKelvey LLP
Queen's Marquee
600-1741 Lower Water Street
Halifax, NS B3J 0J2

Dear Mr. MacDonald:

RE: Student Code of Non-academic Conduct

On October 20, 2023, Toronto Metropolitan University ("**TMU**") received an open letter bearing the same date, apparently signed by students at the Lincoln Alexander School of Law ("**LASL**"), and attached hereto as an annex (the "**Open Letter**").

Pursuant to section 1.1 of the Procedures under the Student Code of Non-academic Conduct (the "**Code**"), TMU requests that, in accordance with the Code, you determine whether any TMU student who participated in the Open Letter has, in doing so, engaged in conduct that does not meet TMU's community standards, contrary to section 6 of the Code.

Thank you for giving this matter your attention and consideration.

Yours truly,

Toronto Metropolitan University

A handwritten signature in black ink, appearing to read "Wendy Lawrence".

Wendy Lawrence
General Counsel

TERMS OF REFERENCE

The following Terms of Reference define the engagement of the External Reviewer for Toronto Metropolitan University (“**TMU**”):

1. On October 20, 2023, 72 students from Lincoln Alexander School of Law (“**LASL**”) publicly released a letter, including a petition and statement, to the Founding Dean, Associate Dean, and Assistant Dean of LASL (the “**LASL Letter**”).
2. TMU has issued a Complaint, as defined in section 4.11 of the Student Code of Non-Academic Conduct (the “**Code**”), concerning the LASL Letter (the “**University’s Complaint**”).
3. The External Reviewer shall be appointed as the designate of the Student Conduct Office, the Executive Director, Student Affairs, and the Vice-Provost, Students, under sections 4.30, 4.15, and 4.33 of the Code, to
 - i. undertake the Complaint Resolution Process, as described in section 8 of the Code and section 2 of the Procedures under the Code;
 - ii. make Decisions, as described in sections 8.3 and 9 of the Code and sections 2.2 and 3 of the Procedures; and
 - iii. subject to the foregoing, and if the External Reviewer deems appropriate, assign appropriate outcomes, as described in section 10 of the Code and section 4 of the Procedures (collectively, the “**External Review**”)

with respect to the University’s Complaint.

4. Subject to section 15 of the Code, and without limiting the foregoing, the External Reviewer shall conduct the External Review in accordance with the Code and the Procedures and shall be the Decision Maker (as defined in section 4.13 of the Code) for all aspects of the External Review.
5. The External Reviewer shall determine, in consultation with the Office of General Counsel, the reasonable legal and other expert support services required for the External Review.
6. At all times in the conduct of the External Review, the External Reviewer shall endeavour to apply the highest standards of legal reason and respect for TMU’s Mission Statement.

Appendix C

Post-Town Hall Reference Guide for LASL Students January 31, 2024

I received over 100 questions from students in advance of and during the Town Hall on January 18, 2024, and I very much appreciate the engagement. This document is intended to be a reference guide for students in response to those questions. It is organized around the common themes and topics that appeared in the Town Hall questions.

This document supplements the Frequently Asked Questions document, last updated January 9, 2024, as well as the Guidance Document for students distributed on January 17, 2024.

LASL students may access the Zoom recording of the Town Hall [REDACTED].

The external reviewer's role and independence

Many of you asked about the nature of my appointment, and my degree of independence. I hope the following points will answer those questions.

- TMU has appointed me, but this external review is independent from the University. I am the sole external reviewer, with support from a small team at Stewart McKelvey.
- I have extensive experience in making independent decisions and I will not be swayed by external pressures, whether it be the University, donors, the media, or the legal community.
- Under the Student Code of Non-academic Conduct (the "Code"), I have been delegated the authority to investigate, make determinations, and assign outcomes as appropriate.
- I acknowledge that I am sitting in a place of privilege, and that I have never experienced antisemitism, Islamophobia, or racism. I will do my utmost to understand the experiences and perspectives of the students who have participated in or been affected by the letter of October 20, 2023 ("the letter"), drawing on my experience in processing very difficult and sensitive evidence, both as a judge for 24 years and, more recently, as Chair of the Mass Casualty Commission.
- Throughout this process, I will make every effort to take student mental health and wellness into account. There are some resources provided at the end of this document.

Scope of the review

I received several questions about the scope of this review. Many of you also asked for particulars regarding which provisions of the Code were allegedly breached.

- The request initiating my review is contained in the letter I received from TMU administration dated November 6, 2023, and my mandate is set out in the Terms of Reference. These documents were distributed to students on January 17, 2024, in the same PDF as the Guidance Document. There are no further particulars beyond what has already been provided.

- As the letter and Terms of Reference indicate, I have been asked to determine whether any TMU student who participated in the letter has engaged in conduct that does not meet TMU's community standards as set out in section 6 of the Code.
- I am not empowered to determine whether other events at TMU / LASL may have breached the Code. Nor am I empowered to assign outcomes or sanctions to any person who is not a TMU student participant in the letter.
- At this stage in the review process, I have not yet made any determinations with respect to the letter.

Restorative approach

As I mentioned during the Town Hall, I intend to take a restorative approach. My comments during the Town Hall prompted many questions about what this meant, and whether Alternative Dispute Resolution (ADR) mechanisms might be available. Please see below for further details.

- Taking a restorative approach does not entail using particular practices or processes as *alternatives* to my formal role as external reviewer. Instead, it is a commitment to be guided by restorative principles in the way I approach and carry out my work.
- By “restorative principles”, I mean that I’m following a process that encourages and supports people to participate in efforts to establish what happened and why, and to help chart a path forward based on individual and shared responsibility for what has happened and what needs to happen in future. This is consistent with Section 2 of the Code, which talks about the Code being educational and supportive, and ensuring accountability and fairness.
- I acknowledge that the Code provides for the possibility of alternative dispute resolution mechanisms. Under Section 8.1 of the Code, I have considered whether standalone ADR processes are appropriate to resolve the complaint. Here, the context is again important: this is not an individual complaint where ADR might be offered as between the parties. The situation I have been asked to review has collective elements that are relevant to understanding what happened and determining appropriate paths forward.
- In this context, I have determined that, because I am already an independent external reviewer and I intend to adopt a restorative approach, a preliminary separate ADR process is unnecessary.
- The questions that I ask when meeting with participant students are intended to reflect restorative principles by asking students to consider their relationships with others, the personal and professional impacts of the letter, and ways LASL could move forward.
- In the context of this review, a restorative approach also means that I will consider the surrounding context and circumstances when making determinations, and I will conduct my review with a goal of promoting education and a path forward.

Meetings with students who participated in the letter

Many students asked about meetings and submissions.

- It has been a top priority for me to schedule meetings with students who participated in the letter.
- The questions and themes to be explored at these meetings are set out in the Guidance Document that was provided on January 17, ahead of the January 19 deadline to set up meetings with me.
- Further to my letter to students dated November 29, I reserved the last two weeks of January for in-person meetings with student participants. Student participants who were unable to meet during this timeframe have been or will be invited to join a virtual meeting during the weeks of February 5 – 9 or February 12 – 16.
- I plan to complete all meetings with student participants by February 16, 2024.
- I sincerely thank you for prioritizing meeting with me and accommodating this schedule, so that I may continue with this review as expeditiously as possible.
- The meetings are designed to help me understand what happened and what outcomes might be appropriate. They are also designed to help me formulate recommendations that may help the LASL community move forward. As such:
 - Students are welcome to discuss whether their participation in the letter may or may not have breached the Code.
 - Students are also welcome to discuss the potential range of sanctions that would be available under the Code in the event a breach is found.
 - As well, I want to hear from students about how they think LASL, as a collective, could learn from this time, and move forward in a positive way. Students' ideas and suggestions in this regard will inform my public-facing report.
- I want to reiterate that I am not looking for students to act as whistleblowers or tell on each other. If, during the course of my review, I learn the identities of students who participated anonymously, those students deserve an opportunity to be heard. This is also why I wanted to offer those students an opportunity to proactively reach out and schedule a meeting with me.
- Meetings with me are optional. However, the Terms of Reference require me to consider whether any student who participated in the letter may have breached the Code. Students who do not meet with me risk facing determinations and outcomes without me having the benefit of their input.
- Students are welcome to meet in a group setting, should they wish to do so.
- Students are welcome to bring a support person or legal representative should they wish. Representatives and supporters can ask clarifying questions during the meeting and do not face any findings against them by acting in this capacity.
- I am not prepared to accept any anonymous submissions from students at this time. Further to my goal of taking a restorative approach to this review, it is important that I have the opportunity to meet with and hear from students firsthand.

Meetings with other students

Some students who did not participate in the letter have asked if there is a way for them to participate in the review.

- During this first phase of meetings in January and February, I am prioritizing meeting with students who participated in the letter. Following these meetings, I will consider how best to bring in other student voices to help me formulate recommendations that may help the LASL community move forward.
- This next phase could involve small-group meetings. Alternatively, I may invite short written submissions from these students. To be clear, students who did not participate in the letter will not be invited to comment on appropriate outcomes for the students who did participate.
- Please stay tuned for further details, with thanks for your patience.

Contextual factors

I have received many questions about whether I will consider the historical context that may have influenced the letter; the role of social media; and external impacts on students who participated. Regarding the scope of information I plan to consider in relation to students who participated in the letter:

- Although my review is focused on the letter itself, I understand that, for many members of the LASL community, the letter is part of an ongoing situation with continued ripple effects. Students are welcome to discuss this broader context with me. For example, students may wish to talk about what they intended in participating in the letter, how they have been impacted, and how their relationships and experiences have been affected.
- If students wish to share material from their own social media accounts that helps to inform their participation in the letter, they can do so in a manner respectful of each other's privacy interests.
- I understand that some students may have particular life circumstances that may be relevant. Students are welcome to share that information if they are comfortable doing so, and I will take it into account.

Timeline, decision-making, and reporting

As I said during the town hall, I expect to issue a public-facing report, in addition to the confidential decisions that will be provided to each respondent student on a one-on-one basis. More details follow.

- Decisions related to individual students who participated in the letter will be provided to those students on a confidential, one-on-one basis. This information will not be released publicly, but will be shared confidentially with TMU administration.
- My public-facing report will likely contain a general summary of the process I followed, and a high-level summary of my findings about the letter. I understand that students are concerned about the public report revealing information about them, even though they will not be mentioned by name.

- In this regard, I will draw upon my previous experience in writing decisions and reports that explain conclusions while respecting privacy and confidentiality.
- I am hoping that all decisions will be made, and the final report concluded, sometime in Spring 2024. I understand that this uncertainty is difficult, perhaps especially for graduating students. I am doing my best to have a flexible and nimble process, and to meet with as many students as possible.

Applicable policies and definitions

I received several questions about TMU policies beyond the Code (which is Policy 61). I was also asked about definitions that may be applied in the review.

- As part of my review, I will consider the rights and obligations applicable to students under the Code, but will also consider the potential impact of other TMU policies, including (but not limited to) the Statement on Free Speech, the Discrimination and Harassment Prevention Policy, and other related policies. For ease of reference, TMU has a [webpage](#) containing the University's free speech policies.
- I have not adopted any external definitions of freedom of expression or free speech (such as the University of Chicago principles) for purposes of the external review.
- TMU has not adopted any definition of antisemitism that applies to this review, and I have not adopted any particular definition of antisemitism for purposes of the external review.
- For further clarity, I have not pre-determined whether any aspects of the letter meet any particular definition.
- If students want to bring particular definitions to my attention, they are welcome to do so.

Outcomes

Students asked questions regarding the range of potential outcomes that might be possible at the end of my review, as well as clarity surrounding who will ultimately determine the outcomes to be assigned.

- The Terms of Reference require me to assign outcomes if I deem it appropriate. An outcome is not necessarily a sanction. The sanctions in Section 10 of the Code (and Section 4 of the Procedures) can only be assigned "following a decision that there has been a breach of community standards."
- If I find that a student has not breached the community standards in the Code, then no sanction would be assigned.
- The outcomes are for me alone to determine. University administration will not have any input, but will be advised of my final determinations.
- I cannot pre-judge what particular outcomes may be appropriate. At this stage, any outcome remains a possibility.
- I will be making individual determinations for each student participant, based in part on information provided to me by the students during our meetings.

- I will not be approaching my decision-making on a 'blanket' or 'one-size-fits-all' basis, although it is certainly possible that some students may receive the same outcome based on their particular circumstances.
- Please note that my mandate is limited to determinations regarding students who participated in the letter, and does not empower me to assign outcomes to other individuals, such as members of the legal community, faculty members, etc.

Resources

We understand that this continues to be a challenging time for the LASL community. For real-time support, students may call or text [Good2Talk](#), a 24/7 phone and text line. Students may also contact **Pratik Nair**, Manager of Health & Wellness, and Academic Success (email: [REDACTED]), regarding other options.