



# MUNFA

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**E-MAILED**

March 1, 2019

**To:** The Memorial University Board of Regents  
**From:** The Memorial University of Newfoundland Faculty Association Executive Committee  
**Subject:** Proposal for Faculty of Law at Memorial University

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I am writing to you, on behalf of the Executive Committee of the Memorial University of Newfoundland Faculty Association (MUNFA), in regards to the proposal to establish a faculty of law at Memorial University. This proposal, which was presented to the Senate of the university on November 13<sup>th</sup>, 2018, will shortly come before you for consideration.

The MUNFA Executive, while not opposed in principle to the creation of a faculty of law at our university, has serious concerns about the proposal in question, and particularly about the process by which it has reached its current phase. MUNFA approaches the question of the proposed law faculty in light of our organizational mission, which includes the promotion of the core values of collegiality, transparency and accountability, both in our own operations and in the operations of the university. In writing to you, our objective is to urge the Board of Regents to apply the strictest level of scrutiny to its review of the faculty of law proposal, paying particular attention to the considerations we raise in this letter. In formulating its concerns, the Executive has drawn on the knowledge of three of our members who are currently serving as Senators.

First, we wish to clarify precisely what the Senate decided in relation to the proposed law faculty. While it has been widely suggested – in the media and in internal university communications – that the Senate “endorsed” the proposal for a faculty of law, in actual fact the Senate conditioned its approval of the proposal on the new faculty being “cost neutral, including infrastructure, to the University” (Senate Minutes, Nov. 13, 2018, p. 55). This condition, which was added as a friendly amendment to the original motion to approve the proposal, reflected Senators’ hesitation to endorse the proposal in the absence of much relevant information regarding the financial viability of the proposed law faculty. On the one hand, no market feasibility study was presented to Senate (p. 55), although Senators were assured such a study would be undertaken at a future time. On the other hand, no evidence was presented to Senate concerning the level of funding that might be obtained from government or private donors, although Senators were assured that the prospects for such funding were reasonably good (p. 55).

We note that Senators were advised that some of the information they sought, such as the prospects for private donations or government funding, could not be obtained in the absence of an approved academic program. Whether or not this is a reasonable claim, we would simply emphasize the obvious: the Senate has approved the proposed law faculty in the absence of any information in relation to the key question of its financial viability. The Senate’s “endorsement”, thus, should be understood with this context in mind.

We emphasize these financial considerations, among other things, because the expected cost-neutral annual tuition fee for the program, based on an annual enrolment of 100 new students, sits at \$30,000 (Memorial University Faculty of Law Proposal August 2018, p. 11), well above the average for Canadian law schools. The implication is that, without sufficient outside funding, a cost-neutral faculty of law at Memorial will require tuition fees that are simply not competitive in the Canadian market. More generally, in view of the

tight financial circumstances presently faced at this university and in the province as a whole, we feel it is incumbent – on us, as part of the university community, and on you, as stewards of the university’s financial well-being – to proceed exceedingly carefully with new ventures that pose considerable risks, even as they promise potential benefits.

We also have serious concerns regarding the process prior to the Senate’s consideration of the proposal. In short, the process of consultation inside the university was woefully inadequate. The proposal itself notes that “individuals” at the Grenfell Campus, Labrador Institute, and Marine Institute were consulted. The document also refers to “extensive consultation” led by the 2013 “feasibility committee”, although the document presented to Senate is silent on the nature of this consultation (Memorial University Faculty of Law Proposal August 2018, p. 1), and moreover, that consultation took place in a different context. We might expect the results of such consultation also to be different were it held now.

Senate itself considered the proposal only once. To our knowledge, the faculty of law proposal was not presented to the academic councils of any of the faculties for formal consideration, nor were the undergraduate and graduate student societies consulted. MUNFA, for its part, was not invited to contribute its perspective to any deliberations on the proposal. Our view is that all of these bodies, and many others, ought to have been engaged in the preparation of the proposal, given its potentially huge impact on the future of the university. To be sure, the proposal provides that “full consultation” on the curriculum and academic regulations will take place upon the Board of Regents’ approval of the new faculty (p. 1). At this stage, however, the critical decision – of whether or not to create a faculty of law in the first place – will already have been taken.

It is, of course, not too late to remedy these defects of process. The Board of Regents can certainly demand, consistent with its mandate, all necessary information and analysis pertaining to the financial viability of the proposed faculty of law. The Board can also require evidence of wide and robust consultation with the university community and key stakeholders in the province prior to moving ahead with the present proposal. We sincerely hope the Board will consider these suggestions. We believe they are critical to making a sound decision, and to the generation of a strong plan for a new law faculty, should the decision be positive.

In closing, we thank the Board for its consideration of our concerns. Please do not hesitate to contact us if you need further information.

Sincerely,

Robin Whitaker, PhD  
President, MUNFA