



## **The Law Society of Ontario's Statement of Principles: A Problem and a Solution**

This is the second in a series of weekly e-blasts, brought to you by the StopSOP Team. Visit [our website](#) to find out more, to read past editions of our newsletter, and to meet our slate of 23 Bencher candidates opposing the compelled Statement of Principles.

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### ***"Why I'm Opposed to the Statement of Principles"*** (a weekly feature by a StopSOP supporter)

By **Earl A. Cherniak, QC**, former Bencher and recipient of the LSO's highest honour - The Law Society Medal

From its inception, I have been unalterably opposed to the LSO's forced requirement to subscribe to its "Statement of Principles". Indeed, I find the demand to be offensive. I have not complied and will not comply in my annual report, or otherwise. My reasons follow.

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I and my firm abide by and indeed exceed the requirements of the laws of Ontario and Canada and the Rules of Professional Conduct of the LSO with respect to diversity, equality, inclusion and much else and will continue to do so.

My personal views and practice on these issues are my own, based on my upbringing and my personal moral code. They are obvious to anyone who knows or works with me. They are only incidentally related to the fact that I am a lawyer, though I subscribe to them in my practice.

I reject absolutely the idea that the LSO or anyone can require me to sign or affirm a statement of principles drafted by it or them, much less the LSO proposed "Statement of Principles".

Earl A. Cherniak, Q.C.

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## The Problem:

**Recommendation 3(1) - Statement of Principles (SOP)**  
**AS ADOPTED BY CONVOCATION:** The Law Society will "require every licensee to adopt and to abide by a statement of principles acknowledging their obligation to promote equality, diversity and inclusion generally, and in their behaviour towards colleagues, employees, clients and the public." This requirement is part of a mandated and "accelerated" culture shift within the legal profession.

### **PROBLEM #2: THE MANDATORY SOP IS COERCIVE**

The requirement to adopt, abide by, and promote a SOP is explicitly mandatory, which means that it is coercive. The LSO is not asking you to review the EDI initiative, to consider its merits, and to voluntarily make changes in your practice

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and law firm. The LSO is not merely leading by example in providing direction, resources, support, and encouragement. Instead, it requires you to state your concurrence. The Law Society has indicated that failure to comply will attract penalties, although they have not been willing to expressly define what they will be, other than to say that “progressive measures” will be taken. Failure to adopt a Statement of Principles is likely to initially result in an obligation to undergo “re-education”, so that you may be told the error of your ways and given a chance to recant. After that the sanction is likely to be administrative suspension of your licence, meaning that you would not be able to practice law. Your livelihood would be in peril. The Statement of Principles may seem to be just a box to tick on your Annual Report, but it is actually the Law Society’s threat to take away your means of making a living unless you comply with their prescription of what to say and what to think. That is not only coercive, but disturbingly tyrannical.

The #StopSOP Slate of Candidates is committed to repealing Requirement 3(1) of the EDI initiative.



Bencher Julian Falconer explains disciplinary plans on TVO’s The Agenda – “Progressive compliance means you go up the ladder...This is only the

beginning in terms of proactive steps.”

The entire TVO Agenda program may be found [here](#).

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## Words Matter

### This Week’s Word – “Promote”

The Law Society requires “every licensee to adopt and to abide by a statement of principles acknowledging their obligation to **promote** equality, diversity and inclusion.” The word “promote” connotes a positive action. The Oxford online dictionary says it means to “support or actively encourage (a cause, venture, etc.); or further the progress of” something. It denotes a more significant duty than to simply refrain from violating existing laws and professional obligations.

The word “promote” was judicially considered in the Ontario Court of Appeal decision in *E.T. v. Hamilton-Wentworth District School Board*, 2017 CarswellOnt 18540. Under section 169.1 of the *Education Act*, school boards have the obligation to promote an inclusive climate. Mr. Justice Lauwers, in his concurring reasons, held an obligation to “promote” was akin to an obligation to “inculcate”:

“[58] In the context, I see the use of the word “promote” in s. 169.1 to denote something close to “inculcate”. The prescribed methods are aimed at securing acceptance by the pupils of the morality of the Ministry’s concept of inclusion, and their disapproval of the listed types of discrimination.”

To “inculcate”, in turn, means to impress something upon the mind of another by frequent instruction or repetition, or to indoctrinate. In other words, the statement of principles directive forces you to acknowledge your obligation to take active steps to further the Law Society’s chosen values as a condition of practicing law.

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The Law Society has gone to great lengths to convince you that acknowledging an obligation to “promote” does not *really* mean “promote”. It asserts that “the obligation to promote equality, diversity and inclusion generally refers to existing legal and professional obligations in respect of human rights including preventing direct, adverse effect and systemic discrimination. Equality, diversity and inclusion are promoted (in other words, advanced) by addressing discrimination in all of its forms.”

The problem is there are no existing legal or professional obligations to “promote” anything. The Ontario Human Rights Code, for example, prohibits discrimination. It does not require positive acts of endorsement or “promotion”. It is almost as if the Law Society does not realize that its licensees interpret words for a living.

If the statement of principles directive merely required an acknowledgement of existing legal obligations, it might as well require you to make a declaration that you will abide by the law – not just the *Human Rights Code*, or the *Rules of Professional Conduct*, but the law in general: the *Employment Standards Act*, the *Income Tax Act*, the *Criminal Code* and on and on. This would be ridiculous, and it is not what the SOP requires. If it did, it would be pointless and silly. Instead, it is pernicious and coercive.

Had the LSO decided that it did not require licensees to promote anything, as its guidance suggests, it could simply have removed the word “promote.” That would likely have prevented the pushback in this election, and the expensive law suit against the LSO (to be defended with your fees) would also likely be settled.

It has chosen not to do so, because the Law Society really does mean “promote.”

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## The Solution:

The Law Society is a democratically-elected body. We, as members, have the ability to rein in the Law Society and get it back on track. This April, vote for the entire StopSOP Slate of Candidates, and only the slate. You can vote outside your own region. Meet three of our candidates:



### Murray Klippenstein

Our Law Society has recently sailed into dangerous waters in imposing on each individual lawyer a compulsory Statement of Principles (SOP) expressing a particular political ideology, an unprecedented incursion on our basic freedoms as lawyers and citizens.

Instead of a profession that serves the public based on the principle of equality, and that acknowledges and supports competence, effort, and contribution, and that seeks to help those who are disadvantaged or unfairly treated, the compulsory SOP enforces a “diversity ideology” that will create in the profession a culture of entitlement and preferential treatment based on the skin colour and sex chromosomes a person was born with, or on some self-proclaimed “identity”, and on suppression of free thinking and free expression. That is not what the profession of law should be. The enforced SOP takes us down a wrong road and should be rescinded.

[Read Murray's Platform & Bio](#)

## **Jorge Pineda**

It is a tremendous privilege to practice law in Ontario. As your representative, my focus will be on upholding and defending our profession's integrity and the LSO's core competencies by rescinding Recommendation 3.1, reducing law society fees, and working to eliminate unnecessary regulatory burden.



I am proud to run on a platform to repeal Recommendation 3.1, the new "Statement of Principles" compelled speech requirement. This Recommendation forces licensees to write out, abide by and promote broad and ill-defined principles. This is a worrying precedent for our profession. It is crucial for the integrity of the profession and the LSO that Recommendation 3.1 be repealed and that any other similar initiatives be stopped. Licensees must be able to practice independence of thought and action while fulfilling their professional obligations.

[Read Jorge's Platform & Bio](#)



## **Jared Brown**

The Law Society of Ontario is one of the last self-regulating professional bodies. It is a public trust. The LSO has abandoned its public interest mandate, directly threatening the trust placed in our profession by the public, and threatening the existence of an independent legal profession.

The public interest is not served by politicizing the profession, by increasing the regulatory and financial burden of practicing law in Ontario, by operating a \$150M/year budget for the Law Society while continuing to run up \$7M/year deficits, or by erecting artificial barriers to the practice of law including burdensome articling regulations, ever increasing annual filing requirements, mandatory diversity statements, training, and demographic reporting.

The public interest is best served by an efficient, focused, and responsive regulator. Refocusing convocation on regulating the profession in the public interest and returning the Law Society to its core mandate will ensure access to justice, and a strong, robust, diverse, and independent profession.

[Read Jared's Platform & Bio](#)

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## In the News...

[Marni Soupcoff in the National Post: Ontario's 'Racialized Law' Debate is Based on Bad Research](#)

[Brian Giesbrecht in the Toronto Sun: A Progressive Agenda is Being Forced on All Ontario Lawyers](#)

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## Endorsement of the StopSOP Slate

"I endorse this slate of candidates for Benchers because it is critical that the Law Society stop infringing our Charter-protected rights of freedom of expression and freedom of belief. Those violations are inherent in the mandatory 'Statement of Principles'. I believe in the following principles that appear to be - but should not be - inconsistent with those of the Law Society currently:

- No member and no citizen should be forced to express any beliefs;
- No member and no citizen should be compelled to express obeisance to somebody else's beliefs;
- Members and citizens have the freedom to hold and express their own beliefs, whether popular or not, provided such statements are lawful;
- Members have an obligation to comply with the Human Rights Code and their respective Rules of Professional Conduct;
- The Law Society's requirement for members to create an SOP that "acknowledges your obligation to promote..." violates principles #1, #2 and #3 and seriously misrepresents #4;
- The Society should focus on its core mandates set forth in the Law Society Act, to:
  - ensure that lawyers and para-legals 'meet standards of learning, professional competence and professional conduct that are appropriate';
  - 'maintain and advance the cause of justice and the rule of law'; and
  - 'facilitate access to justice for the people of Ontario'."

~ **Brian Smeenk, Labour & Employment Lawyer, Toronto**

"I am married to a 'visible minority' aka 'person of colour' aka 'racialized person'; my children and grandchildren are similarly 'racialized'. However, they do not ask for, nor do they need, special treatment. Similarly, my firm has 50% 'racialized' lawyers/articling students. However, I refuse to be bullied by the LSO and will not acquiesce to their compelled speech dictates. I firmly believe that the LSO has lost sight of its mandate and is significantly overreaching its

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authority. If we as lawyers don't stop this now, it will only get worse with time and become progressively harder to undo."

~ **Peter Liston, Ottawa**

"I will be supporting the StopSOP slate because I do not desire an accretion of powers by the LSO outside of its mandate and effectiveness."

~ **Ayoub A. Ali, Mississauga**

"In addition to the many well-articulated criticisms of the SOP, I find them both obviously ineffectual in any real sense and, frankly, offensive that other lawyers (benchers) would think that I/we would need this measure in order to behave decently and fairly to our fellow professionals."

~ **J. Robert Armstrong, Toronto**

"It's time for the Law Society to stop social engineering and being the enemy of free speech and thought."

~ **Michael Thiele, Ottawa**

"Thank you. Thank you. Thank you for organizing to unravel this despicable mandate. The social justice warriors have to be stopped from taking over our profession. I will be supporting the slate both with my vote and my money."

~ **Paul Conway, Unionville**

I am opposed compulsory loyalty oaths, compulsory confessions of religious faith, and compulsory statements generally, whether or not I happen to agree with the views I would be compelled to express. Also, given the power-hungry propensities of social justice warriors and the "logic" of their beliefs, we can be sure that the bullying and harassment would not stop at requiring us to adopt a statement of principles. If nothing else, at some point the inquisitors would come around to investigate our compliance with the creed.

~ **Albert Frank, Toronto**

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## The StopSOP Slate is also endorsed by:

Howard Levitt, Toronto

Ned Steinman, Ottawa

Doug Turner QC, Uxbridge

Paul Conway, Unionville

Richard Barrett, Mississauga

Carol Bargman, Thornhill

Dylan McGuinty Jr., Ottawa

Andrew Rogerson, Toronto

Warren Fullerton, Windsor

Rod Godard, Windsor

Robert G. Kreklewetz, Toronto

Warren Milko, Hamilton

John Abraham, Toronto

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## How You Can Help StopSOP (click for links):

**[DONATE to Campaign Expenses - we need your help!](#)**

**[SPREAD THE WORD - forward this newsletter to your colleagues](#)**

**[TAKE A STAND - add your name to the supporters list on our website](#)**

**[BE AN INFLUENCER - email us to endorse the slate](#)**

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**Most Importantly - VOTE for the StopSOP slate, starting mid-April**

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Short clip on why Professor Alford is fighting the coercive Statement of Principles.



