

# UNIVERSITY OF TORONTO

## OFFICE OF THE VICE-PRESIDENT AND PROVOST

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TO: Members of the Committee on Academic Policy and Programs

SPONSOR: Shirley Neuman, Vice-President and Provost

DATE: February 14, 2003

AGENDA ITEM: 1

### ITEM IDENTIFICATION

Provost's Study of Accessibility and Career Choice in the Faculty of Law

### JURISDICTIONAL INFORMATION:

This item is presented for information. The Committee is responsible for monitoring academic matters as may be required by general policy, including student financial support and accessibility.

### HIGHLIGHTS:

This study has been completed at the request of Governing Council. Through the fall of 2002, an extensive consultation process was conducted, prior to development of the methodology for the study. The study protocol, submitted to this Committee at its meeting of November 27, 2002 (included as Appendix 1 of the study), listed the groups that I met with formally. Based on the excellent discussion at the committee meeting the methodology was further revised. Subsequent to the meeting there have been several submissions from organizations regarding the study, I will address these at the meeting of the Committee.

As noted in the presentation to the Committee, some changes were required to the methods as we became more familiar with the data, particularly those coming from the Law Society of Upper Canada. Unfortunately, several of the variables that the Law Society had proposed to provide, proved not to be available or were not usable in the analysis, primarily because of the manner in which the Society's questionnaire was structured.

The report includes three major components: a literature review, the results on accessibility including financial aid, and the results on career choice.

The literature review reveals that there has been very little previously published on the impact of tuition increases and law school attendance. There is a literature on accessibility to higher education in general, which shows that tuition does not play a major role in access to higher education. Rather, other factors, such as parental education, are far more important predictors of attendance. Several well-designed studies have been completed on the impact of debt load on career choice. This literature does not suggest that debt load plays a role in career choice. Other factors, such as salaries in different settings, play a far more significant role.

The accessibility results demonstrate that increases in tuition in recent years have not led to a decline in attendance for those from lower income groups, women and visible minorities. Indeed, attendance has increased for women and visible minorities. Furthermore, the Faculty of Law has doubled the proportion of Black students and maintained the level of Aboriginal students, which is about twice the average for Canadian law schools.

While it may appear to be counter-intuitive that accessibility is maintained or improved in the face of increased tuition, the explanation is obvious when the financial aid data are examined. The Faculty of Law has increased total financial aid nineteen fold in 7 years. In 1999, 39% of all law students received some financial aid, while 51% received aid in 2002. Bursary assistance reduced tuition completely to zero for 4% of students in 1999, rising to 7% in 2002. For first year students, complete tuition relief has increased from 3% to 13%.

The data on career choice show that patterns of articling and employment for University of Toronto graduates have been different from those of other Ontario law school graduates and remain so. University of Toronto graduates have been more likely to article at large firms and eventually to work at such firms. This is not unreasonable since there are more such firms in Toronto, and many students tend to article and then work in the area where they trained. Of note, there is no change over time in the relative proportion of University of Toronto graduates, as compared with graduates from the rest of the province, who article or work in large firms. Furthermore, the proportion of University of Toronto graduates who article in non-firms, which includes government, agencies and clerkships has increased, while this has decreased for the rest of the province. There are no differences in trends for the current setting of practice as compared between Toronto and other institutions.

These results demonstrate that accessibility has been maintained and likely improved, in the face of increased tuition, and that career choice has not been affected by previous tuition increases.

There is no doubt that the observed patterns are in large part due to the substantial financial aid that the Faculty of Law has put into place. I am pleased that the Faculty is continuing its efforts to improve the quality of its financial aid programs. The Faculty remains committed to increasing financial aid. It is reviewing the delivery of its programs to ensure that students can get an estimate of their aid package well in advance

of the start of the school year so they can plan effectively. It is proposed that deadlines for application will be moved to the spring so that a provisional financial aid award could be made. The Faculty is also reviewing the ScotiaBank processes and creating a new position of Director of Admissions and Financial Aid to better meet student needs.

The Faculty is planning to enhance the back-end debt relief program component of its financial aid program. This provides debt remission for graduates engaged in careers that result in lower salaries. Among the items being considered are changes in the way in which loan forgiveness data are presented to allow students to better assess the benefits, a raise in the income threshold for the back-end debt relief program, and the possible attachment of a public interest requirement.

It is important that the Committee is also aware of the tremendous improvements in the quality of legal education at the University of Toronto over the time period of this study. During this time, the full-time faculty complement has increased from 33 Full Time Equivalents (FTE) to 50 FTE, and the Faculty of Law now has a student-faculty ratio of 1:10 – one of the best student-faculty ratios of any law school in North America. The ratio will improve further over the next couple of years as the Faculty's complement increases to 57 FTE. Student programs and services have been strengthened in a number of ways, including the creation of a pro bono placement program, the recruitment of a full-time Director of International Human Rights Programs, the expansion of the student legal aid clinic, the addition of a career counselor specializing in public interest careers, the introduction of a Distinguished Visiting Faculty Program (which each year brings more than 20 of the world's leading law professors and jurists to the Faculty for intensive courses), and the creation of academic centres in Innovation Law and Policy and Health Law and Policy.

PROVOST'S STUDY OF  
ACCESSIBILITY AND CAREER CHOICE  
IN THE FACULTY OF LAW

Shirley Neuman  
Vice-President and Provost  
University of Toronto

Presented to the  
Committee on Academic Policy and Programs  
of the  
Governing Council of the University of Toronto

February 24, 2003

## **Introduction**

At its May 2, 2002 meeting, the Governing Council approved the following motion:

That there be no further substantial increase in tuition fees for the JD program in the Faculty of Law until the Governing Council is satisfied that there has been no reduction in accessibility due to the 2002-03 tuition increase and no career distortion due to previous substantial increases based upon a comprehensive Accessibility and Career Choice Review to be conducted by the Provost's Office.

The study requested by Governing Council represented an elaboration of the annual report of the Vice-Provost, Students, on financial accessibility, which is submitted to governance through the Committee on Academic Policy and Programs. The methodology was presented to the Committee on Academic Policy and Programs at its November 27, 2002 meeting. There was extensive discussion of the methodology at that meeting and many excellent comments were received. The Committee endorsed the proposed methodology. Following the meeting the methodology was revised to reflect the comments of the Committee and a final version of the methods was circulated to the Committee in a memorandum dated December 15, 2002 (Appendix 1). In developing the methodology for this study, there was broad consultation with the community, which is described in detail in the methodology memorandum. The Provost held an information session for all interested governors. She also consulted with several groups internal and external to the University community. Through out this process the Provost's Office has been prepared to entertain requests for input from any group that so desired.

As was noted to the Committee, the proposal outlined the general methodology, since our Office did not yet have all of the data available at that time. We have been able to follow the methodology closely, but there are some amendments that had to be made after our staff started working with the data. These changes are discussed in the relevant section. Nevertheless, we are confident that the study has achieved the stated objectives.

The results are presented in three main sections. The first section presents the results of a literature review on accessibility and career choice. The second section presents data reflecting accessibility, based primarily on admission statistics from the Faculty of Law. This section also presents data on financial aid provided by the Faculty of Law. The third section deals with career choice patterns of University of Toronto law graduates as compared to those from other Ontario law schools, based on data from the Law Society of Upper Canada.

Appendix 2 presents the statistical methods and provides definitions for key terms. The messages of this study are presented graphically in charts, and we try and avoid the use of statistical terminology. Where appropriate, we do note if trends are statistically significant. The exact probability values are noted on the charts.

## Section 1: Literature review

A review of the literature on accessibility and career choice was conducted by Professor Emeritus David Stager of the Department of Economics and completed in October, 2002. Dr. Stager is a noted expert on labour economics, with a particular interest in issues related to the economics of education, and he has previously done work on the economics of the legal profession. An addendum, reflecting two additional studies was added in January, 2003. This review is included as Appendix 3.

Very little has been published on the question of the effect of tuition fee increases on accessibility to law school. General reviews of the literature on accessibility and fees report that the important factors related to post-secondary education are parental education and students' academic ability, that tuition increases have been offset by increased financial aid, and that educational costs other than tuition can impose greater need on specific groups of students.

There have been several studies on the effect of debt load on career choice in area of practice. This literature does not support the hypothesis that debt burden significantly determines career choice. While educational debt may be related to job choices, other factors are more likely to influence where students will ultimately practice. For example, the literature suggests that salary gaps between settings are an important factor independent of educational debt. The research does suggest that loan forgiveness programs can play a role, particularly for those from underrepresented groups, and that knowing, when one enters Law School, that a student debt forgiveness program is in place for graduates who earn low incomes is helpful.

There has been considerable public attention given to a report released on November 18, 2002 entitled *From Paper Chase to Money Chase: Law School Debt Diverts Road to Public Service*.<sup>1</sup> This report presents statistics to support the contention that debt load has an impact on career choice decisions. Unlike most of the studies cited in the review by Professor Stager, and the approach taken in this report, *Paper Chase* is based on a survey of third year law students; thus it describes career intentions, and perceived impact of debt load, rather than actual career choice (this is also an issue with the medical student study published in the *Canadian Medical Association Journal* which has been frequently cited in governance). Such studies, unfortunately suffer from several forms of bias well known in the social sciences. Self-reported data does not necessarily reflect actual or intended behaviour. Bias can occur when respondents give the response that they think will be useful to them or others, rather than what they themselves actually believe to be true. Finally, as with all surveys, the respondents may not necessarily represent the full population. A low response rate can lead to a very different sample in the survey, as compared to the full population. Of note, the response rate on the *Paper Chase* survey was only 4.3% (1,622 out of 37,900 students), and obviously is not a representative sample of all law students. The conclusions must therefore be interpreted with extreme caution. It is of interest, however, to note that the key recommendations in the survey focussed on enhancing Loan Repayment Assistance Programs, or back-end debt relief, and scholarship programs.

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<sup>1</sup> This report is available on the Equal Justice Works website [<http://www.napil.org/>]. This report was presented by Equal Justice Works, the Partnership for Public Service, the National Association for Law Placement, and the National Legal Aid and Defender Association in the United States.

## Section 2: Financial Accessibility

### *Admission Statistics*

Admission statistics from the Faculty of Law for each year since the 1995/96 academic year are presented in Table 1. This includes the total number of applications, the number of offers made, the number accepted and number deferred i.e. those applicants who received offers of admission but who deferred their enrolment until the next year or year after. As the number of deferrals has increased, the yield rate (accepted divided by offers) is presented with deferrals included in the denominator. Deferrals are those applicants who received offers of admission but were deferring their enrolment until the next year or year after. Typically, they are undertaking graduate study or working. The table also presents the tuition for the incoming class in each year.

Some of the key results from the admission and enrolment statistics are presented graphically in charts. Figure 1 demonstrates the total number of applications per year, which has increased over this period. Of note, based on the number of students sitting the LSATs, the University of Toronto Faculty of Law's share of the proportion of students who apply has increased from 11.0% in 1992 to 21.3% in 2001. A greater proportion of potential applicants are applying to the University of Toronto's Faculty of Law. Furthermore, the proportion of the very best applicants, as reflected in LSAT scores is increasing. Because of confidentiality reasons, the actual distributions of LSAT scores for the applicants to the Faculty of Law at the University of Toronto compared to other applicants cannot be presented. However, regardless of the LSAT threshold chosen, the proportion of the 'best' students, that is those with a score above that threshold, has increased for the University of Toronto. For example, for one threshold point, this has gone from 26.2% to 42.2%, a finding that is statistically significant ( $p < 0.001$ ). This does not support a conclusion that the best students are turning away from the University of Toronto. If tuition increases, coupled with strong financial aid programs, were disproportionately affecting those from under-represented groups, and those groups are uniformly distributed above and below the LSAT threshold, then one would expect to see a decline in the students above the threshold, that is the effect referred to as "sticker shock". This effect is not supported by the data. Table 1 also presents the entering class grade-point average (GPA) and mean LSAT score, these characteristics have remained stable.

The yield rate, or proportion of students accepting offers, has remained steady over the period of the study, as demonstrated in Figure 2. There is no statistically significant change in yield rate during this time. Yield rate is a statistic used to reflect the attractiveness of the institution to potential students. A high yield rate shows that the University is getting a high proportion of the applicants it is making offers to. If tuition relative to other law faculties were affecting choice of law school it would be expected that yield rates would decline over time. This is not observed.

Accessibility to different population groups is an important objective of the University of Toronto. The admission statistics are presented for the proportion of women applicants and registrants in Figure 3. Both the proportion of women applicants and registrants has increased during this period. The increase in applicants is statistically significant and has gone from 49.1% to 55.1%. The proportion of registrants has gone from 45.7% to 49.2%, and is not statistically

significant. However, of note, in 1998 the proportion of women registrants was 58.9%, which affects the trend statistics.

Offers to and registrations by Black students are presented in Figure 4. This data is only available from 1999. The numbers are quite small, and thus not statistically significant. However, the proportion of offers has increased from 1.8% to 3.2% while the proportion of registrants has almost doubled from 2.2% to 3.9%. Based on current self-reported statistics from the LSAT pool of applicants, the national average of Black LSAT takers is 3.5%. The Faculty of Law is reflecting the pool of available candidates. Efforts to increase the proportion of Black registrants in law faculties have to focus on increasing the pool.

Figure 5 presents the same type of data for Aboriginal students. Again, the numbers are small and there is considerable fluctuation from year to year, so it is difficult to reach conclusions. However, there is no pattern that accessibility is declining for this group of students. The Faculty of Law does have comparative data for all Canadian Law schools. Of note is that the proportion of Aboriginal students at the University of Toronto has consistently been about twice the national average.

The proportion of visible minorities in the Faculty of Law has increased over this period, from 21% to 29%, a trend which is statistically significant (Figure 6). If changes in tuition were disadvantaging students from these populations one would expect a decline in this proportion.

We now turn to the data on parental income which is available for registrants who were required to report this from 1999 onwards<sup>2</sup>. Table 2 presents this data in \$10,000 increments as requested by the Committee. However, given the small numbers it is difficult to draw interpretations from this table; thus the data are also presented in Table 3, in three income groups plus the Not Reported group. This last group represents more than a third of students, although this proportion has declined slightly during this period. Figure 7 presents the income distributions over the last four years. There is no statistically significant change. The proportion of students in the <\$60,000 parental income group has stayed steady at about 17%, while the proportion in the \$60,000-\$89,999 group has fluctuated around 16%. There is a slight increase in the proportion of students with parental income  $\geq$ \$90,000, but this is not statistically significant. This increase appears to be drawn in part from the not reported group. It is also important to note that these values are not inflation-adjusted, and that household incomes have increased over time. Figure 8 presents last year's data compared to the average for the three previous years; this reflects the same pattern of little change in the parental income below \$90,000. Accessibility is being maintained for those from lower- and middle-income households.

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<sup>2</sup> The current Faculty of Law financial aid policy requires parental income data for applicants who are 7 years or less out of high school. Those applicants who are more than 7 years out of high school are not required to report parental income. Some students who are expected to report parental income do not report it and the Faculty cannot require them to do so.

**To summarize the accessibility data, we review the research questions in the methodology endorsed by the Committee.**

- *Has the proportion of students from lower-income backgrounds declined as tuition fees have increased in the Faculty of Law?*

There is no decline in the proportion of students from lower-income backgrounds.

- *Has the proportion of students who are women or members of visible minority groups declined as tuition fees have increased?*

There is no decline in the proportion of women or members of visible minority groups, and indeed these proportions have increased.

- *Has the U of T share of the pool of Canadian students applying to law schools declined as tuition fees have increased?*

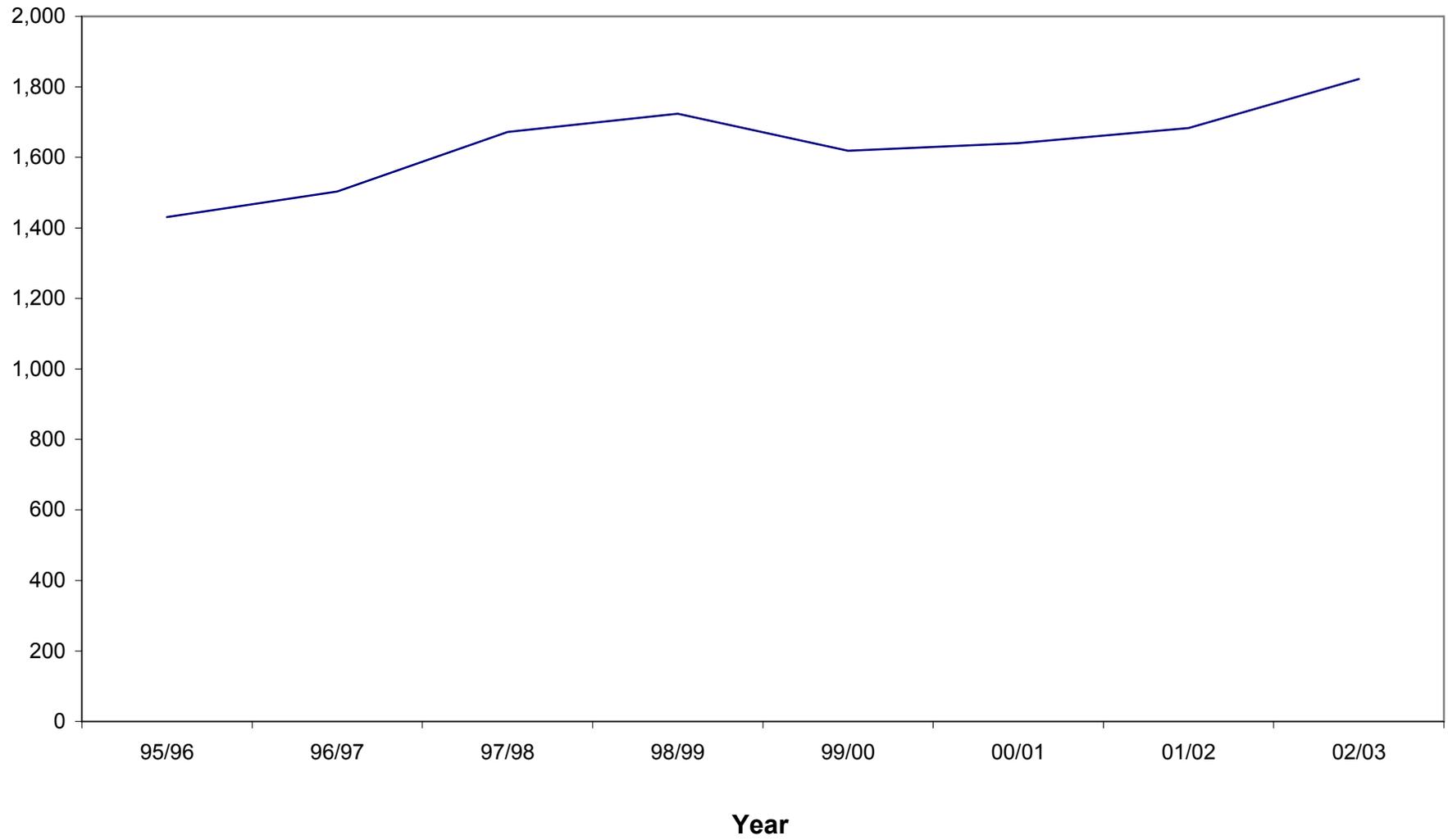
The U of T share of the pool of Canadian students applying to law schools has not declined, and indeed has increased.

**Table 1**  
**University of Toronto - Faculty of Law**  
**Admission Statistics 1995 - 2002**

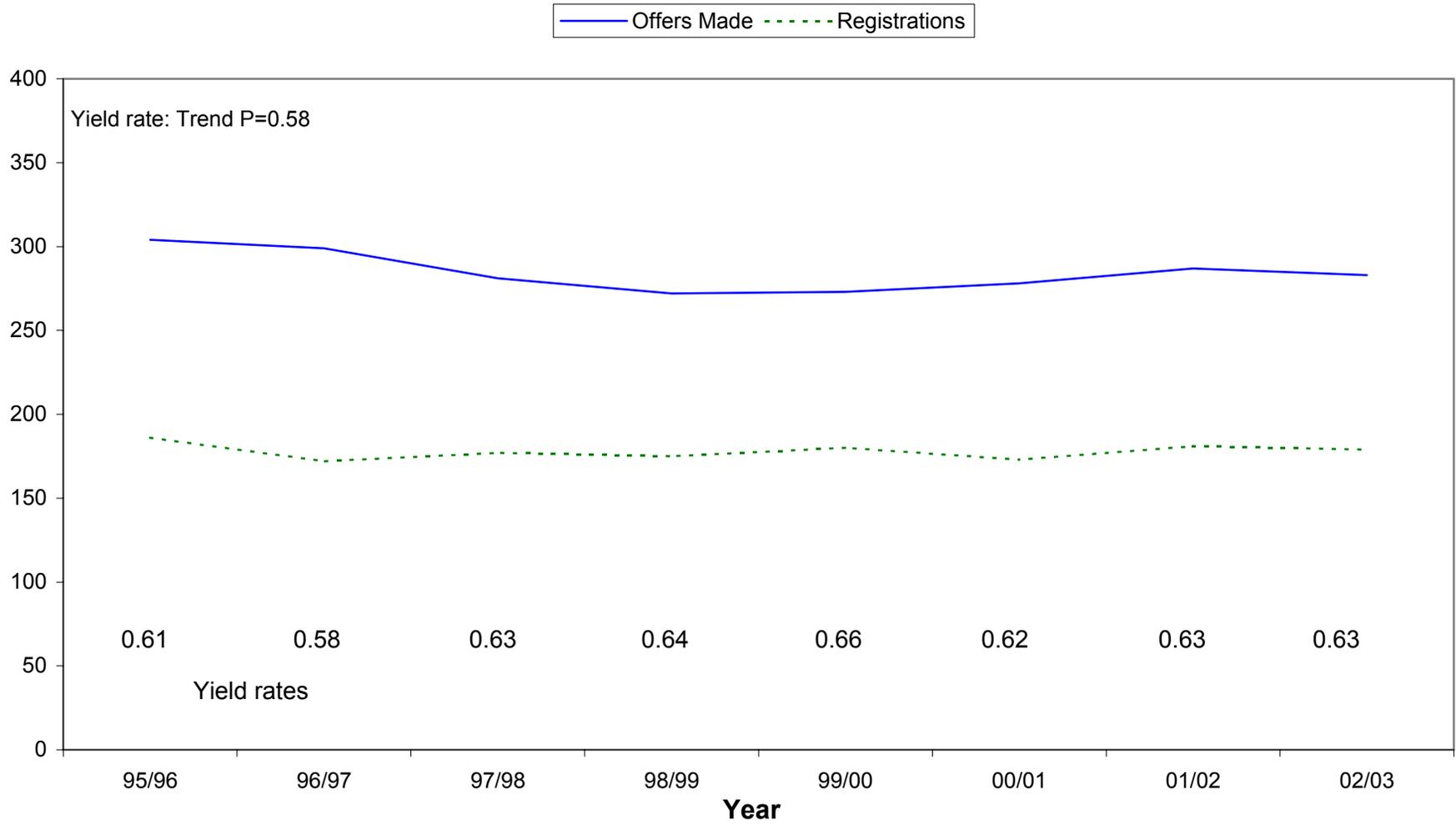
Year	Number of Applications			Number of Offers Made	Number of Deferrals	Number of Registrations			Yield Rates (incl. Deferrals)	Yield Rates (excl. Deferrals)
	Female	Male	Total			Female	Male	Total		
<b>95/96</b>	703	728	1,431	304		85	101	186	0.61	0.61
<b>96/97</b>	787	716	1,503	299		78	94	172	0.58	0.58
<b>97/98</b>	898	774	1,672	281	14	84	93	177	0.63	0.66
<b>98/99</b>	902	822	1,724	272	24	103	72	175	0.64	0.71
<b>99/00</b>	875	744	1,619	273	24	92	88	180	0.66	0.72
<b>00/01</b>	937	703	1,640	278	30	94	79	173	0.62	0.70
<b>01/02</b>	926	757	1,683	287	32	94	87	181	0.63	0.71
<b>02/03</b>	1,004	818	1,822	283	26	88	91	179	0.63	0.70

Year	Tuition Fees Domestic Students			Median LSAT Registrations	Median GPA Registrations
	Year 1	Year 2	Year 3		
<b>95/96</b>	2,451	2,451	2,451	164	83.5%
<b>96/97</b>	3,173	3,173	3,173	164	83.7%
<b>97/98</b>	3,808	3,808	3,808	164	83.3%
<b>98/99</b>	5,904	4,570	4,570	165	84.4%
<b>99/00</b>	8,000	7,085	5,484	165	84.5%
<b>00/01</b>	10,000	8,400	8,000	165	84.1%
<b>01/02</b>	12,000	10,500	8,820	165	84.0%
<b>02/03</b>	14,000	12,600	11,025	165	84.9%

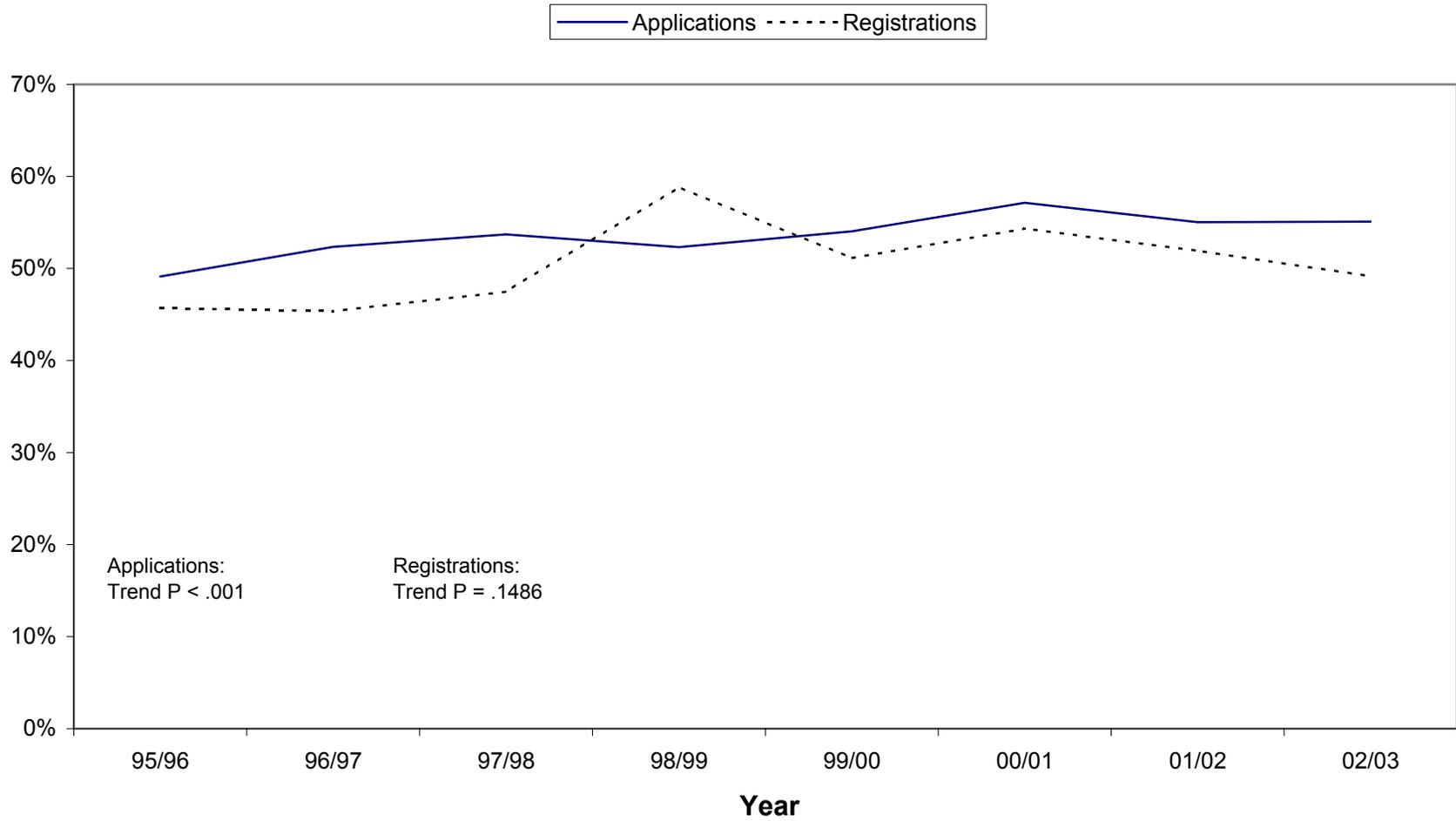
**Figure 1**  
**University of Toronto - Faculty of Law**  
**Total Applications, 1995/96 to 2002/03**



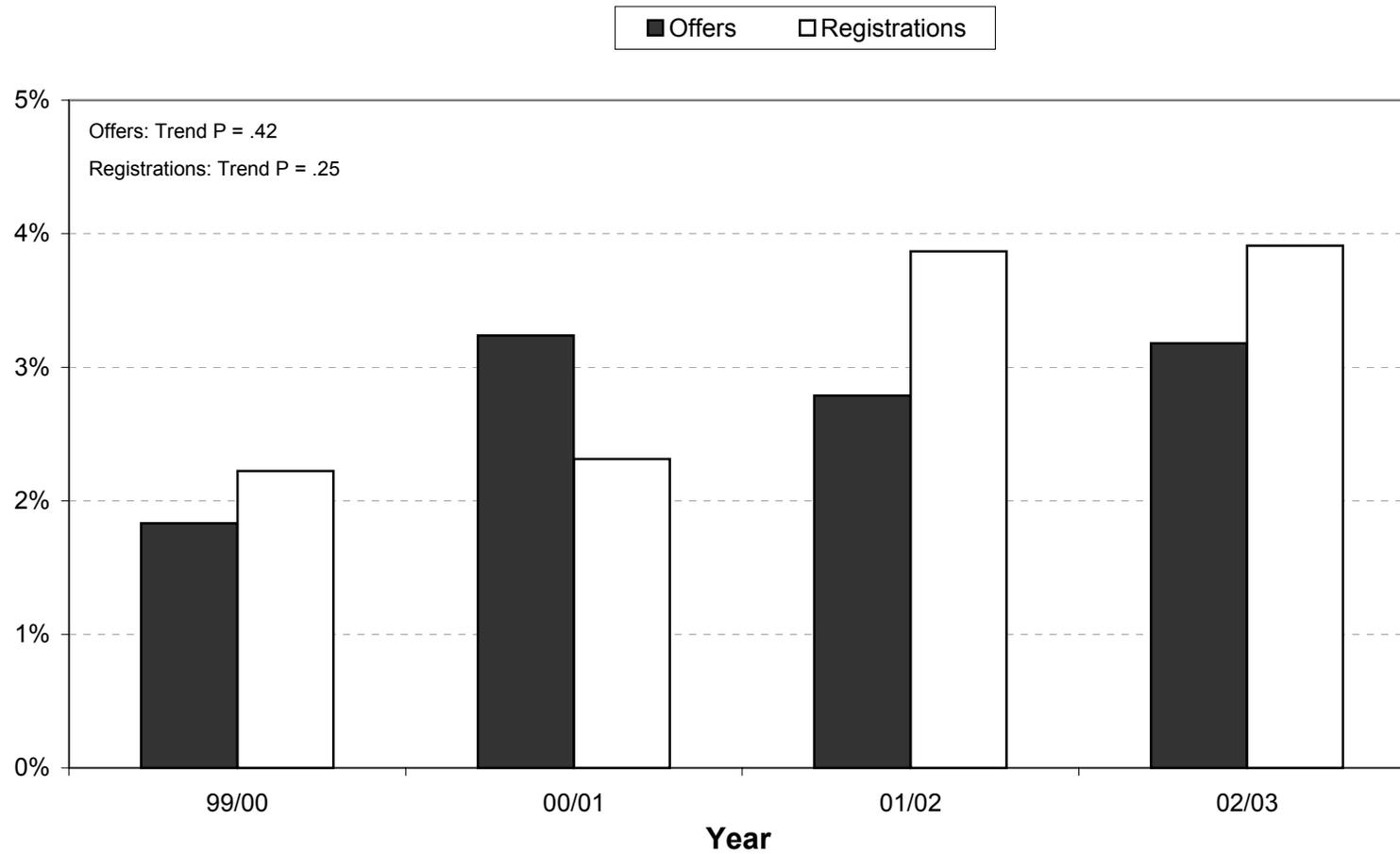
**Figure 2**  
**University of Toronto - Faculty of Law**  
**Registrations vs Offers Made, 1995/96 - 2002/03**



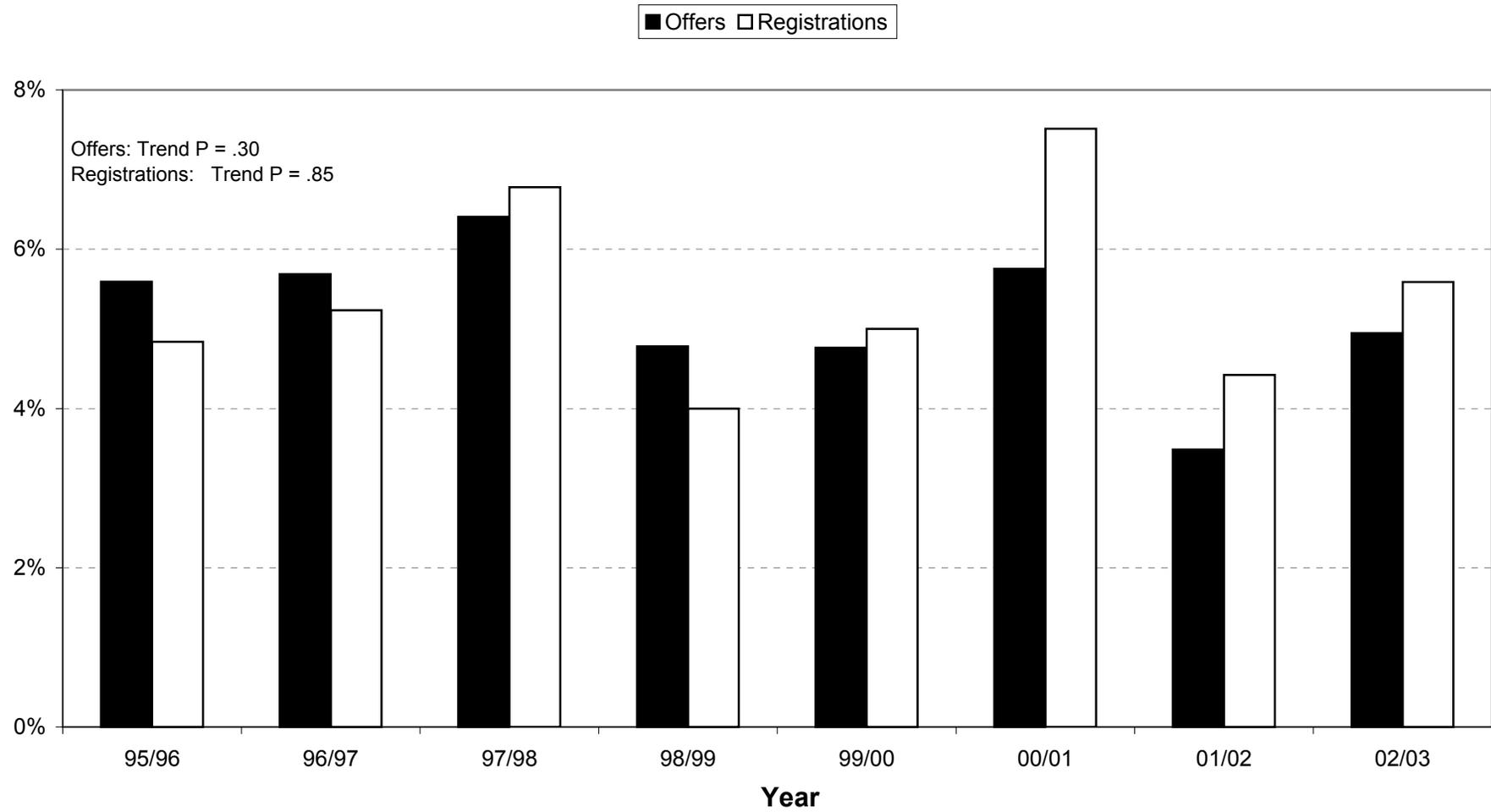
**Figure 3**  
**University of Toronto - Faculty of Law**  
**Applications and Registrations**  
**Percentage of Women, 1995/96 - 2002/03**



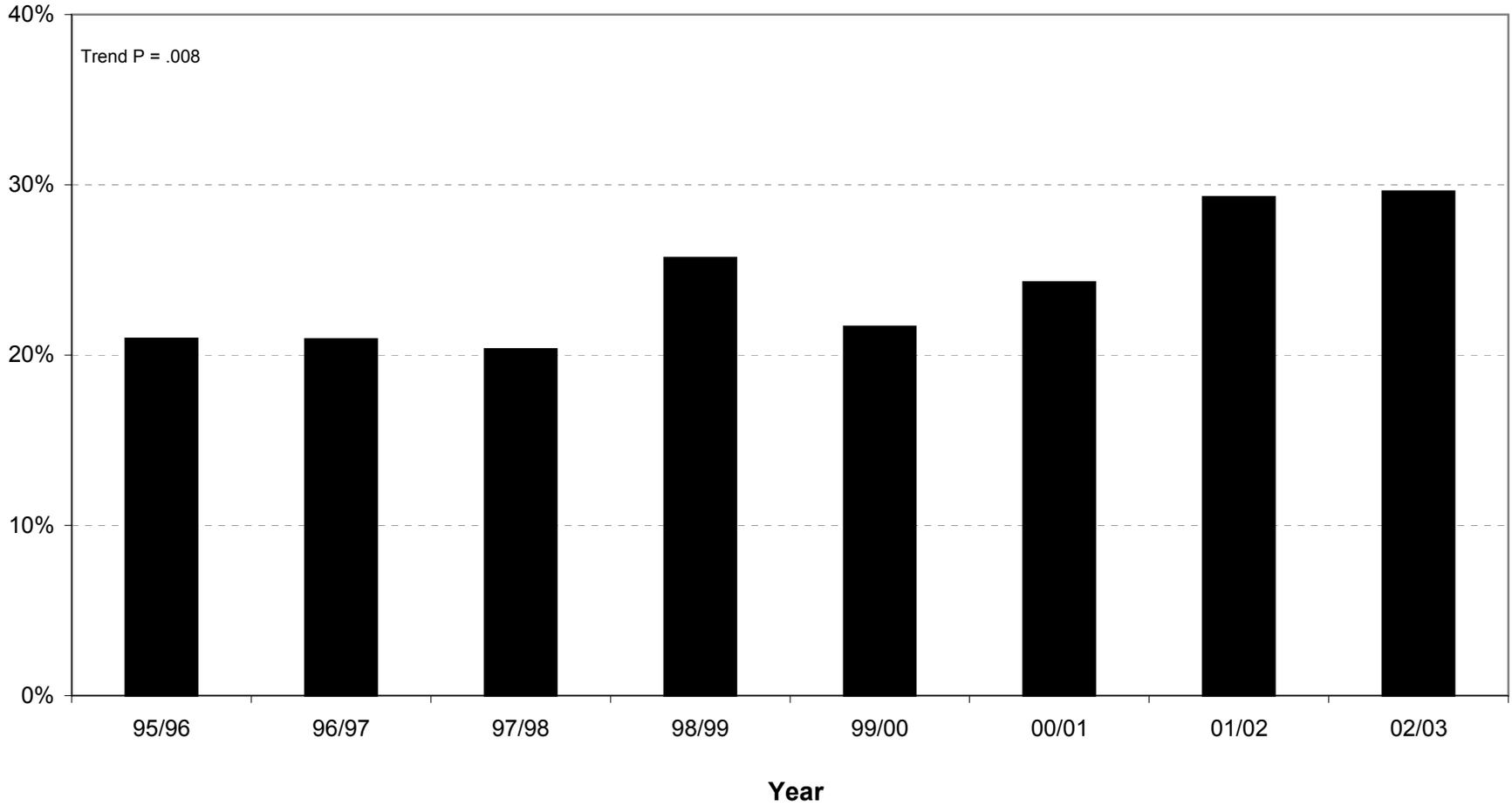
**Figure 4**  
**University of Toronto - Faculty of Law**  
**Offers and Registrations**  
**Percentage of Black Students, 1999/00 - 2002/03**



**Figure 5**  
**University of Toronto - Faculty of Law**  
**Offers and Registrations**  
**Percentage of Aboriginal Students, 1995/96 - 2002/03**



**Figure 6**  
**University of Toronto - Faculty of Law**  
**Percentage of Visible Minorities Registered, 1995/96 - 2002/03**



**Table 2**  
**University of Toronto - Faculty of Law**  
**Parental Income Data**  
**First Year Class (excl deferrals)**

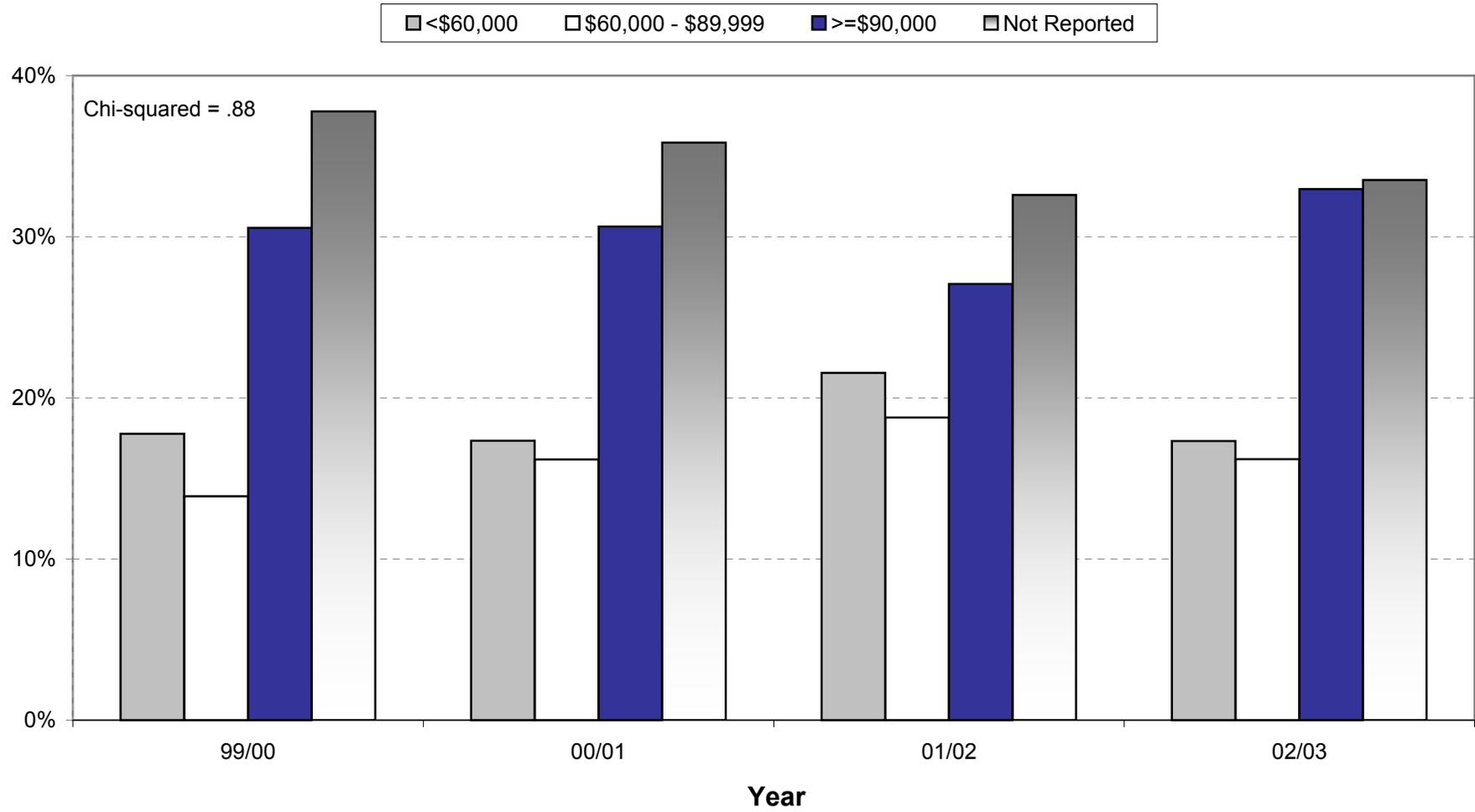
(in thousands of dollars)	<u>1999-2000</u>		<u>2000-2001</u>		<u>2001-2002</u>		<u>2002-2003</u>	
	N	%	N	%	N	%	N	%
0 - 9,999	5	2.8%	3	1.7%	1	0.6%	3	1.7%
10,000 - 19,999	3	1.7%	2	1.2%	2	1.1%	3	1.7%
20,000 - 29,999	2	1.1%	5	2.9%	9	5.0%	6	3.4%
30,000 - 39,999	5	2.8%	5	2.9%	7	3.9%	8	4.5%
40,000 - 49,999	7	3.9%	8	4.6%	11	6.1%	4	2.2%
50,000 - 59,999	10	5.6%	7	4.0%	9	5.0%	7	3.9%
60,000 - 69,999	9	5.0%	7	4.0%	12	6.6%	14	7.8%
70,000 - 79,999	6	3.3%	13	7.5%	11	6.1%	8	4.5%
80,000 - 89,999	10	5.6%	8	4.6%	11	6.1%	7	3.9%
90,000 - 99,999	12	6.7%	4	2.3%	6	3.3%	6	3.4%
100,000 - 109,999	5	2.8%	9	5.2%	7	3.9%	13	7.3%
110,000 - 119,999	13	7.2%	5	2.9%	4	2.2%	6	3.4%
120,000 - 129,999	8	4.4%	7	4.0%	3	1.7%	4	2.2%
130,000 - 139,999	6	3.3%	3	1.7%	5	2.8%	4	2.2%
140,000 - 149,999	3	1.7%	7	4.0%	2	1.1%	3	1.7%
150,000 - 159,999	2	1.1%	1	0.6%	4	2.2%	4	2.2%
160,000 - 169,999	0	0.0%	1	0.6%	2	1.1%	4	2.2%
170,000 - 179,999	0	0.0%	0	0.0%	0	0.0%	1	0.6%
180,000 - 189,999	0	0.0%	2	1.2%	0	0.0%	0	0.0%
190,000 - 199,999	1	0.6%	2	1.2%	2	1.1%	0	0.0%
200,000 - 209,999	1	0.6%	0	0.0%	3	1.7%	1	0.6%
210,000 - 219,999	0	0.0%	1	0.6%	0	0.0%	0	0.0%
220,000 - 229,999	0	0.0%	0	0.0%	5	2.8%	3	1.7%
230,000 - 239,999	0	0.0%	0	0.0%	0	0.0%	0	0.0%
240,000 - 249,999	0	0.0%	2	1.2%	3	1.7%	1	0.6%
>=250,000	4	2.2%	9	5.2%	3	1.7%	9	5.0%
Not reported	68	37.8%	62	35.8%	59	32.6%	60	33.5%
<b>Total</b>	<b>180</b>		<b>173</b>		<b>181</b>		<b>179</b>	

Table 3

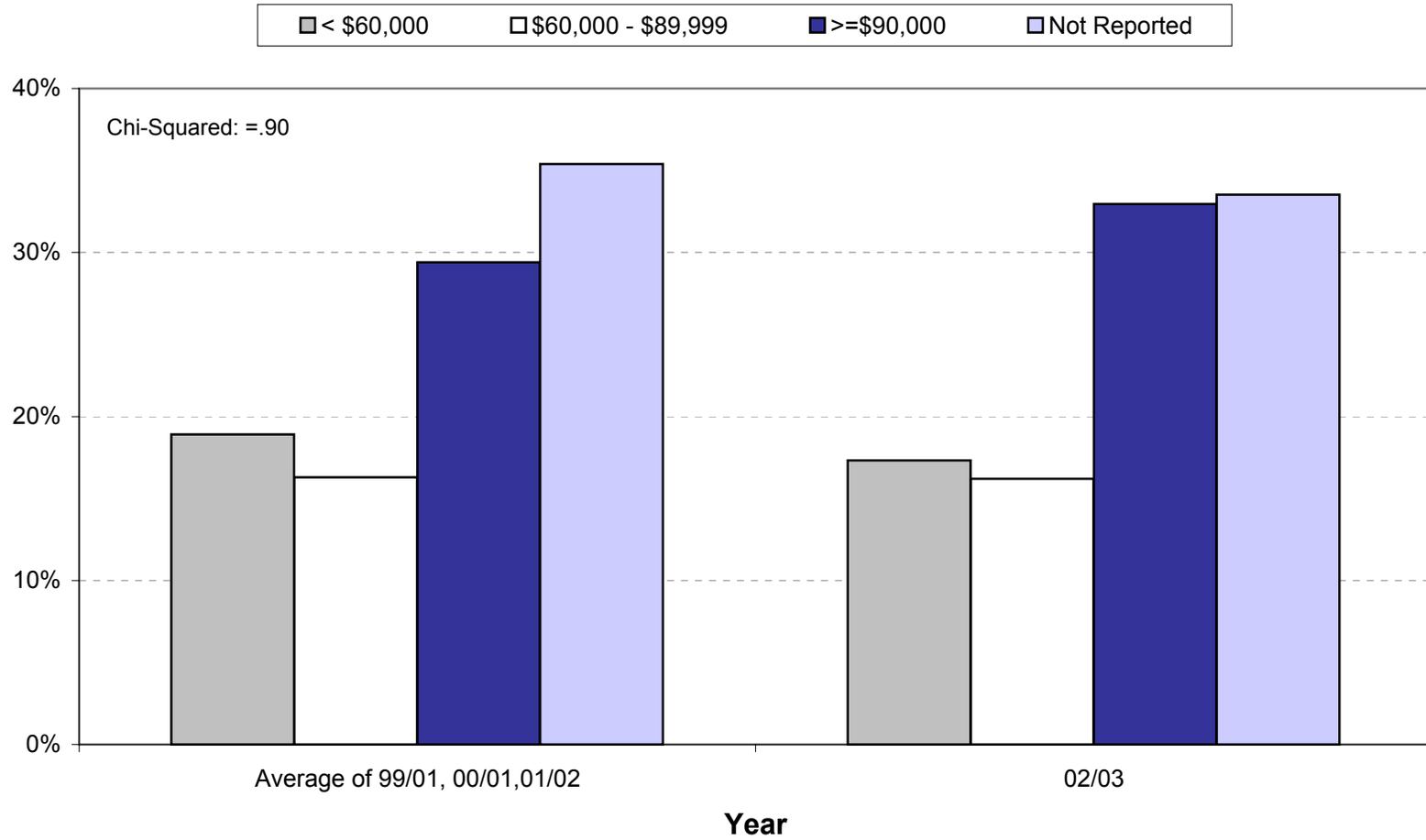
**University of Toronto - Faculty of Law  
Parental Income Data  
First Year Class - Excluding Deferrals**

Parental Income Ranges	99/00		00/01		01/02		02/03	
	N	%	N	%	N	%	N	%
<\$60,000	32	17.8%	30	17.3%	39	21.5%	31	17.3%
\$60,000 - \$89,999	25	13.9%	28	16.2%	34	18.8%	29	16.2%
>=\$90,000	55	30.6%	53	30.6%	49	27.1%	59	33.0%
Not Reported	68	37.8%	62	35.8%	59	32.6%	60	33.5%
<b>Total</b>	<b>180</b>	<b>100.0%</b>	<b>173</b>	<b>100.0%</b>	<b>181</b>	<b>100.0%</b>	<b>179</b>	<b>100.0%</b>

**Figure 7**  
**University of Toronto - Faculty of Law**  
**Parental Income of First Year Class, 1999/00 - 2002/03**



**Figure 8**  
**University of Toronto - Faculty of Law**  
**Parental Income**  
**Average of 1999/00, 2000/01 & 2001/02 vs 2002/03**



*Financial aid*

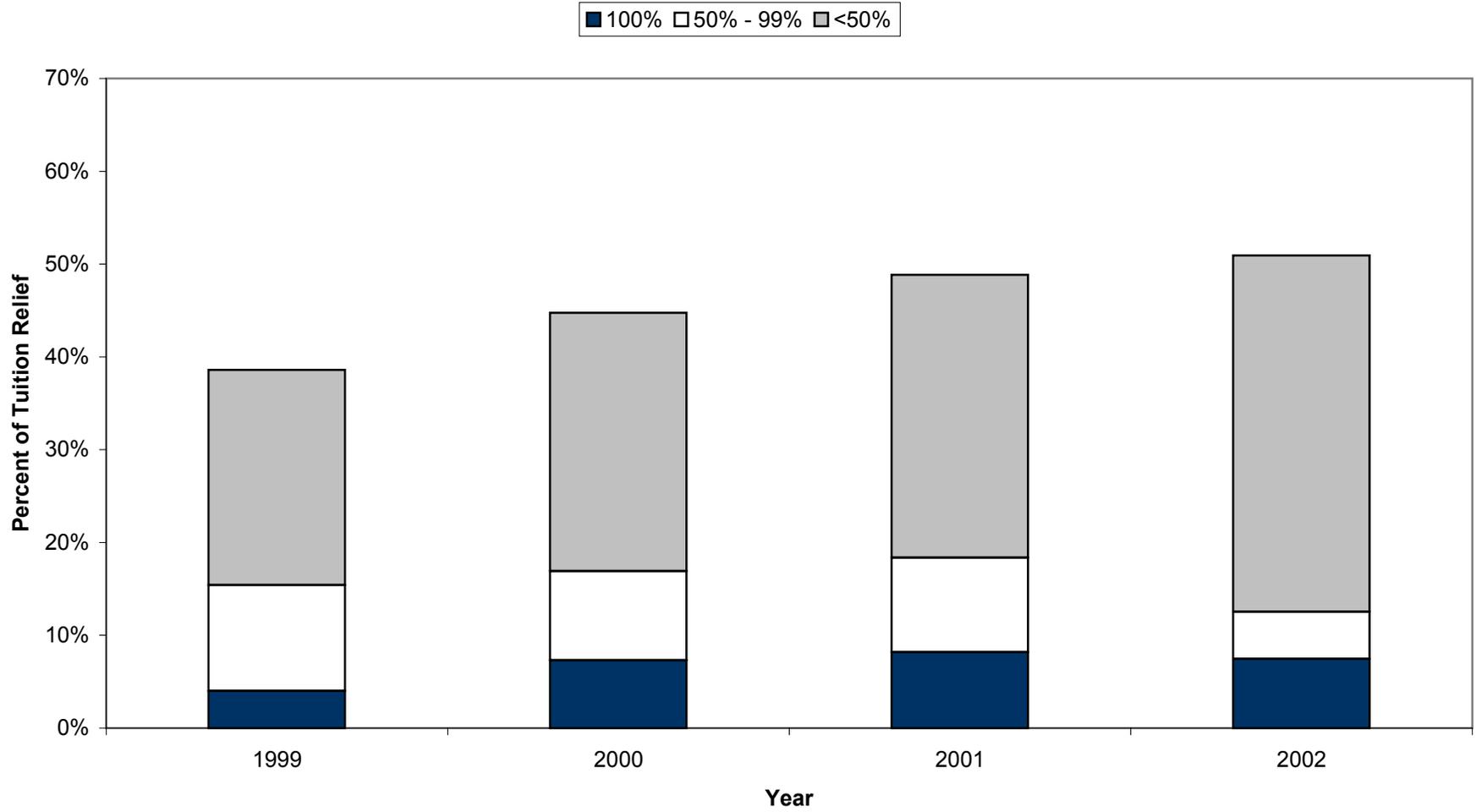
We would expect that tuition increases would have an impact on accessibility. The results observed above appear to be counterintuitive, until we examine how the Faculty of Law has closely linked financial aid with tuition. The results on accessibility are better appreciated when we take into account the dramatic increases in financial aid at the Faculty over the past five years. Faculty financial aid has increased almost nineteen-fold, from \$102,000 in 1995 to \$1.9 million in 2002. Financial aid from all sources (for example, non-repayable grant money, including Canadian Millennium bursary, Ontario Graduate Scholarship, and First Nations House bursaries and excluding loans) was approximately \$2.6 million in 2002. During this period there has been a six-fold increase in tuition. Financial aid from the faculty has increased three times faster than tuition. Note that the amounts of external support underestimate total financial aid, since the faculty is not necessarily aware of all sources (e.g., support from out of province sources).

The faculty provides substantial financial aid to individual students in the form of bursaries and interest free loans. Financial need is calculated by assessing basic expenses (tuition and fees, books and supplies, room and board, and personal expenses) with adjustment for marital status, number of dependents and parental support, moving expenses for first year students, uninsured medical expenses and a one-time computer equipment allowance. Allowance is made for non-routine requests for special needs. A student's total need is assessed against all sources of income and assistance. Interest free loans are provided to cover the unmet financial need, with bursary assistance provided on top. Students with more financial need receive proportionately more bursary assistance. The effect of this bursary assistance is to lower the net tuition that the student bears.

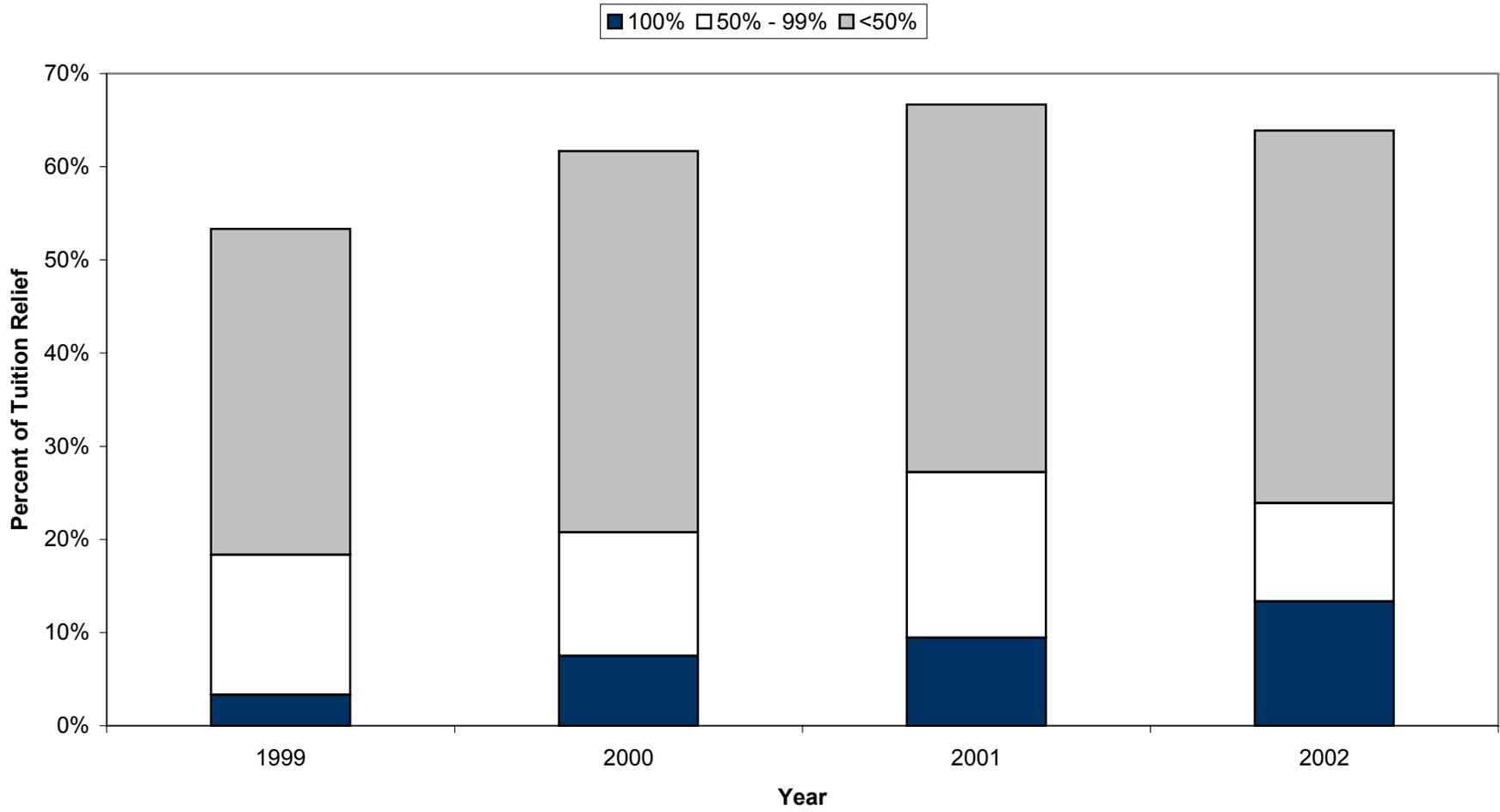
The proportion of students that the Faculty is able to provide assistance to has increased dramatically (Figures 9a to 9d). In 1999, 39% of all law students received some financial aid, while 51% received aid in 2002. For first year students, the proportions have gone from 53% receiving aid in 1999, to 64% receiving aid in 2002. Bursary assistance reduced tuition completely to zero, for 4% of students in 1999, rising to 7% in 2002. For first year students, complete tuition relief has increased from 3% to 13%. Note that the data for 2002 are provisional, further aid will become available to students during the course of the year.

To conclude this section, financial aid has increased dramatically in total amount, proportion of students covered, and tuition relief granted per student.

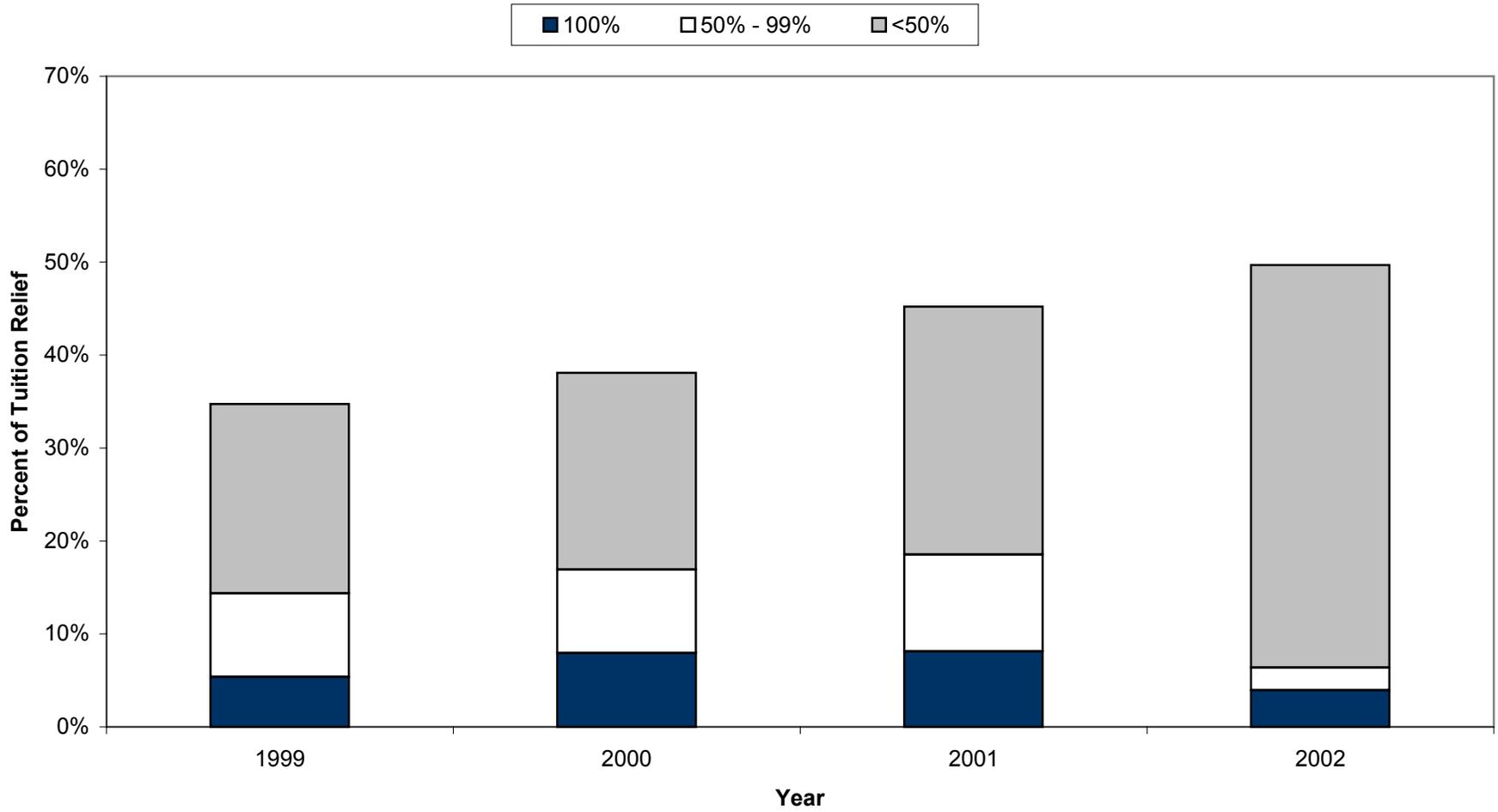
**Figure 9a**  
**University of Toronto - Faculty of Law**  
**Proportion of Students Provided Aid, All Years**



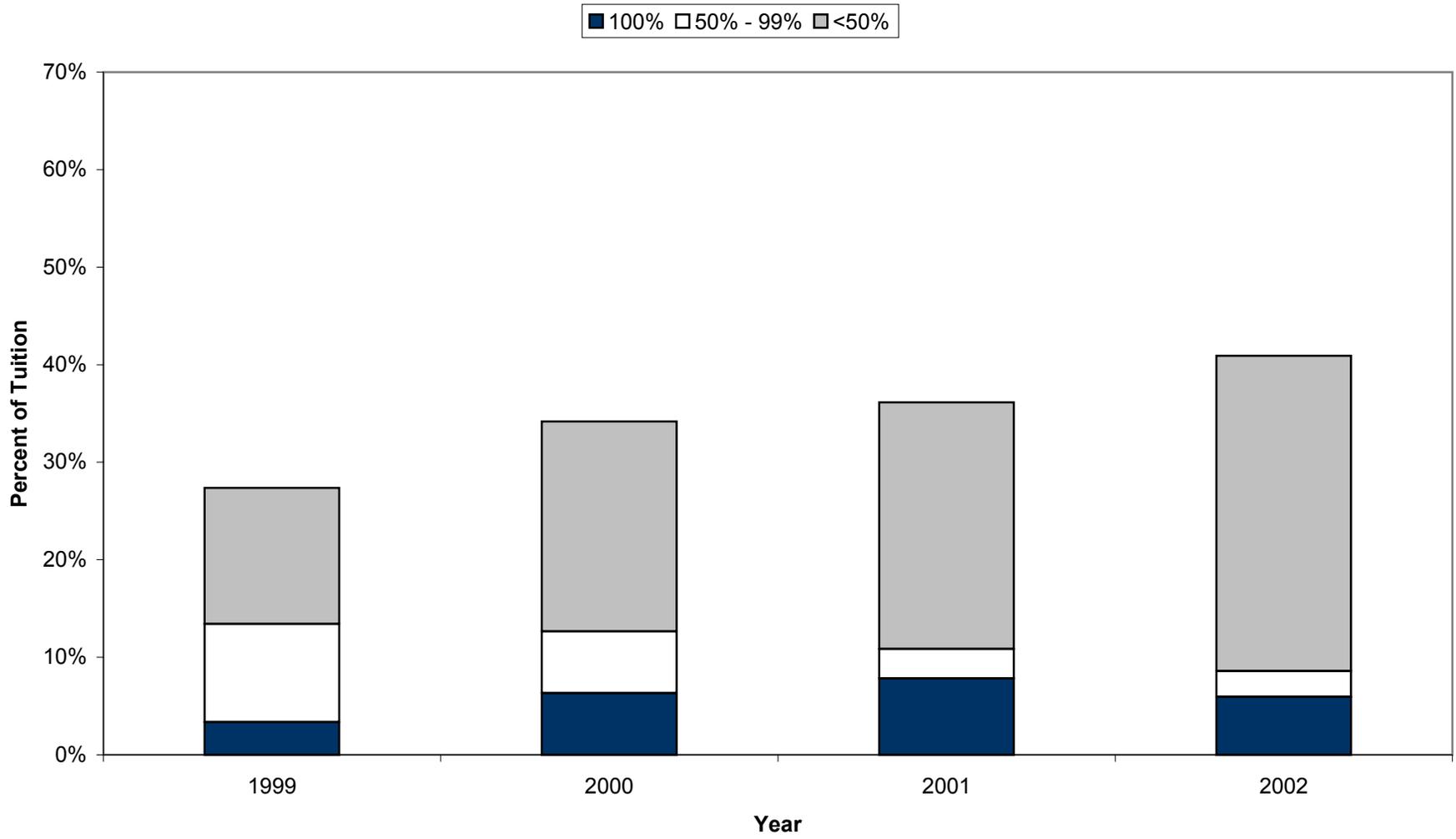
**Figure 9b**  
**University of Toronto - Faculty of Law**  
**Proportion of Students Provided Aid, 1st Year Students**



**Figure 9c**  
**University of Toronto - Faculty of Law**  
**Proportion of Students Provided Aid, 2nd Year Students**



**Figure 9d**  
**University of Toronto - Faculty of Law**  
**Proportion of Students Provided Aid, 3rd Year Students**



### Section 3: Career Choice

This analysis compares the articling and career choices of University of Toronto graduates with those from other Ontario law schools for the period from 1995 to 2000 for those who article or still work in Ontario.

Table 4 and Figures 10a and 10b show the patterns of articling choice for University of Toronto Faculty of Law graduates and for law graduates from other institutions. University of Toronto graduates have always been more likely to article at large firms (more than one hundred lawyers). This may be due to several factors, the most important simply being there are more large firms in the Toronto area, and students have a tendency to article in the area where they study. Furthermore, there are more articling positions in the larger firms. The number of positions available in such firms has increased over time, with one important reason being the consolidation of legal firms (that is, there are more large firms). Over the study period, graduates from all law schools in Ontario have become more likely to article in large firms. The change in this pattern is not statistically different for University of Toronto graduates as compared with the rest of the province. The proportion of students articling at non-firms (e.g., government, agencies and clerkships) has increased somewhat for University of Toronto from 20.9% to 22.7%, while it has decreased for other Ontario law faculty graduates, from 23.7% to 19.3%. The proportion of University of Toronto graduates working in small firms has declined, while those from the rest of the province have remained steady in this category. University of Toronto graduates have become more likely to article with employers that are in the public interest, and less likely to article in small firms, as compared with graduates from other Ontario law faculties. However, the difference in trends between Toronto and other institutions is not statistically significant in a regression model that takes account of year, school of graduation and gender.

Current place of practice in 2001, for University of Toronto Faculty of Law graduates and for law graduates from other institutions is shown in Table 5 and Figures 11a and 11b. Again, the proportion of graduates employed in large firms has increased for both University of Toronto and the rest of the province. The proportion of University of Toronto graduates in large firms has increased from 20.0% to 38.7%, while those from other institutions have increased from 11.6% to 22.4%. Thus the relative odds of a University of Toronto graduate working in a large firm relative to a small firm has stayed constant, with odds ratios of approximately 2. Interpretation of the data on likelihood of a graduate working in a non-firm (government, agency, education, etc.) is more difficult. There appears to be a decline in the proportion of graduates working in non-firm settings for the whole province. However, it is important to note that individuals who ultimately work in such settings, may first work in a firm to gain experience. The data suggest this is the case. The data do not show that there is any difference in this pattern for University of Toronto graduates as compared to those from other institutions and there is no statistically significant difference in the trends in a regression model that takes account of year, school of graduation and gender.

At the time the methodology was presented to the Committee the Law Society of Upper Canada had reported that we would be able to access data on whether a member practiced public interest

law and whether they accepted legal aid or not. We were unable to construct the variable for public interest law. The questionnaire was structured in such a way that a large proportion of respondents left this item blank; for the last two years this was the case for virtually all individuals in the database. Similarly, the Law Society of Upper Canada determined that the legal aid variable was not asked in a reliable manner and thus would not make this data available to us.

Members of the Committee had expressed concern with the examination of legal aid in any case. Many factors have influenced this career choice in the last decade in Ontario. The “flight from legal aid,” as it is termed, is directly related to the low legal aid tariff. A Legal Aid Ontario (LAO) report published in November 2001 and entitled *Legal Aid Tariff Reform: Business Case*<sup>3</sup> states that “(h)ourly rates for legal aid work were last changed in 1987. Inflation has eroded the real-dollar value by 32% since then, while lawyers' overhead costs have continued to rise.” LAO has reported that the legal aid tariff rate had made it uneconomical and unaffordable for lawyers to perform enough legal aid to support the increasing demand for legal aid services. And although there has always been a disparity between private sector lawyer salaries and the salaries of those performing legal aid work, there is now an increased disparity between the salaries of lawyers performing legal aid work and other lawyers in the justice system, specifically Crown Attorneys, who have received significant salary increases since 2000. The tariff issue is at the heart of lawyers quitting legal aid or reducing legal aid case loads. As a result of the legal aid program not having kept pace with legal practice in Ontario, many attorneys have chosen not to accept legal aid clients; therefore, it would have been difficult to draw conclusions on this data.

**To summarize the career choice data, we review the research questions in the methodology endorsed by the Committee.**

*Are increases in tuition fees paid over the course of the LL.B/J.D. program **associated** with the choice of (1) articling position (2) subsequent career?*

Although tuitions have risen much more rapidly at the University of Toronto Faculty of Law than at other Ontario schools, the data show no statistically significant differences in trends in choices of articling positions or practice circumstances when comparing the University of Toronto to other schools.

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<sup>3</sup> Available at [http://www.legalaid.on.ca/en/info/pdf/Tariff\\_Business\\_Case\\_full\\_document.pdf](http://www.legalaid.on.ca/en/info/pdf/Tariff_Business_Case_full_document.pdf)

Table 4

**Law Society of Upper Canada  
Career Choice Data  
Number and Percentage of Graduates by Site of Articling**

**All Ontario Institutions**

	1995	1996	1997	1998	1999	2000	1995	1996	1997	1998	1999	2000
<b>Non-Firm</b>	222	236	187	194	194	209	23.3%	24.5%	21.2%	20.3%	21.1%	19.7%
<b>Small Firm</b>	529	544	517	519	496	576	55.6%	56.5%	58.5%	54.3%	54.0%	54.2%
<b>Large Firm</b>	201	183	180	242	229	278	21.1%	19.0%	20.4%	25.3%	24.9%	26.2%
<b>Total</b>	952	963	884	955	919	1063	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

**University of Toronto**

	1995	1996	1997	1998	1999	2000	1995	1996	1997	1998	1999	2000
<b>Non-Firm</b>	24	31	16	22	23	27	20.9%	27.2%	19.8%	19.5%	23.7%	22.7%
<b>Small Firm</b>	48	48	40	45	34	36	41.7%	42.1%	49.4%	39.8%	35.1%	30.3%
<b>Large Firm</b>	43	35	25	46	40	56	37.4%	30.7%	30.9%	40.7%	41.2%	47.1%
<b>Total</b>	115	114	81	113	97	119	62.6%	69.3%	69.1%	59.3%	58.8%	52.9%

**Other Ontario Institutions**

	1995	1996	1997	1998	1999	2000	1995	1996	1997	1998	1999	2000
<b>Non-Firm</b>	198	205	171	172	171	182	23.7%	24.1%	21.3%	20.4%	20.8%	19.3%
<b>Small Firm</b>	481	496	477	474	462	540	57.5%	58.4%	59.4%	56.3%	56.2%	57.2%
<b>Large Firm</b>	158	148	155	196	189	222	18.9%	17.4%	19.3%	23.3%	23.0%	23.5%
<b>Total</b>	837	849	803	842	822	944	81.1%	82.6%	80.7%	76.7%	77.0%	76.5%

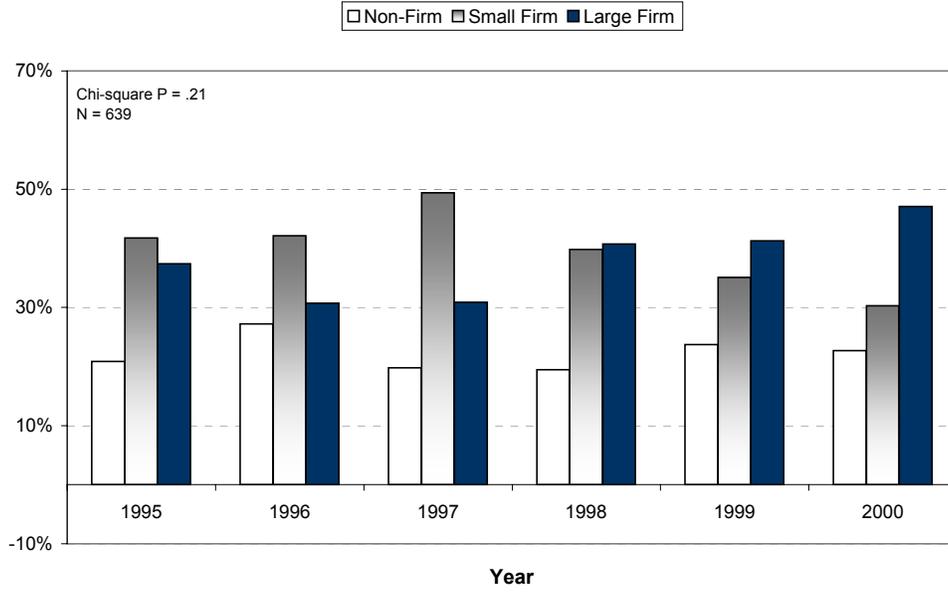
**Adjusted Odds Ratios (AOR) and Confidence Intervals (CI)**

	Large		Non-Law	
	AOR	CI	AOR	CI
1995	2.72	( 1.74 , 4.30 )	1.21	( 0.72 , 2.03 )
1996	2.46	( 1.53 , 3.95 )	1.54	( 0.95 , 2.50 )
1997	1.92	( 1.13 , 3.26 )	1.13	( 0.62 , 2.07 )
1998	2.46	( 1.58 , 3.84 )	1.35	( 0.79 , 2.30 )
1999	2.86	( 1.75 , 4.65 )	1.87	( 1.07 , 3.29 )
2000	3.77	( 2.41 , 5.90 )	2.25	( 1.33 , 3.80 )

Relative odds of choosing a large firm or non-law firm site of articling versus a small firm for UofT graduates as compared to other institutions. Regression model includes gender.

In another regression model that included a time-institution interaction term the interaction was not significant, p=0.757.

**Figure 10a**  
**Law Society of Upper Canada**  
**Proportion of UofT Graduates by**  
**Size of Articling Firm**



**Figure 10b**  
**Law Society of Upper Canada**  
**Proportion of Graduates in Other Institutions by**  
**Size of Articling Firm**

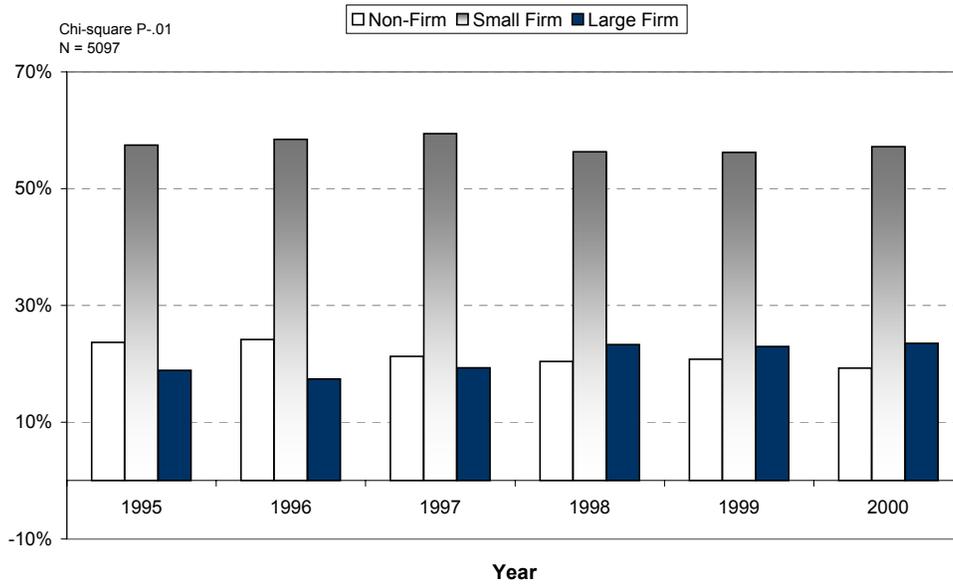


Table 5

**Law Society of Upper Canada  
Career Choice Data  
Number and Percentage of Graduates by Site of Employment**

**All Ontario Institutions**

	1995	1996	1997	1998	1999	2000	1995	1996	1997	1998	1999	2000
<b>Non-Law Firm</b>	599	578	476	424	359	401	62.9%	60.0%	53.8%	44.4%	39.1%	37.7%
<b>Small Firm</b>	233	238	277	327	359	405	24.5%	24.7%	31.3%	34.2%	39.1%	38.1%
<b>Large Firm</b>	120	147	131	204	201	257	12.6%	15.3%	14.8%	21.4%	21.9%	24.2%
<b>Total</b>	952	963	884	955	919	1063	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

**University of Toronto**

	1995	1996	1997	1998	1999	2000	1995	1996	1997	1998	1999	2000
<b>Non-Law Firm</b>	60	60	40	46	28	38	52.2%	52.6%	49.4%	40.7%	28.9%	31.9%
<b>Small Firm</b>	32	19	19	32	33	35	27.8%	16.7%	23.5%	28.3%	34.0%	29.4%
<b>Large Firm</b>	23	35	22	35	36	46	20.0%	30.7%	27.2%	31.0%	37.1%	38.7%
<b>Total</b>	115	114	81	113	97	119	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

**Other Ontario Institutions**

	1995	1996	1997	1998	1999	2000	1995	1996	1997	1998	1999	2000
<b>Non-Law Firm</b>	539	518	436	378	331	363	64.4%	61.0%	54.3%	44.9%	40.3%	38.5%
<b>Small Firm</b>	201	219	258	295	326	370	24.0%	25.8%	32.1%	35.0%	39.7%	39.2%
<b>Large Firm</b>	97	112	109	169	165	211	11.6%	13.2%	13.6%	20.1%	20.1%	22.4%
<b>Total</b>	837	849	803	842	822	944	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

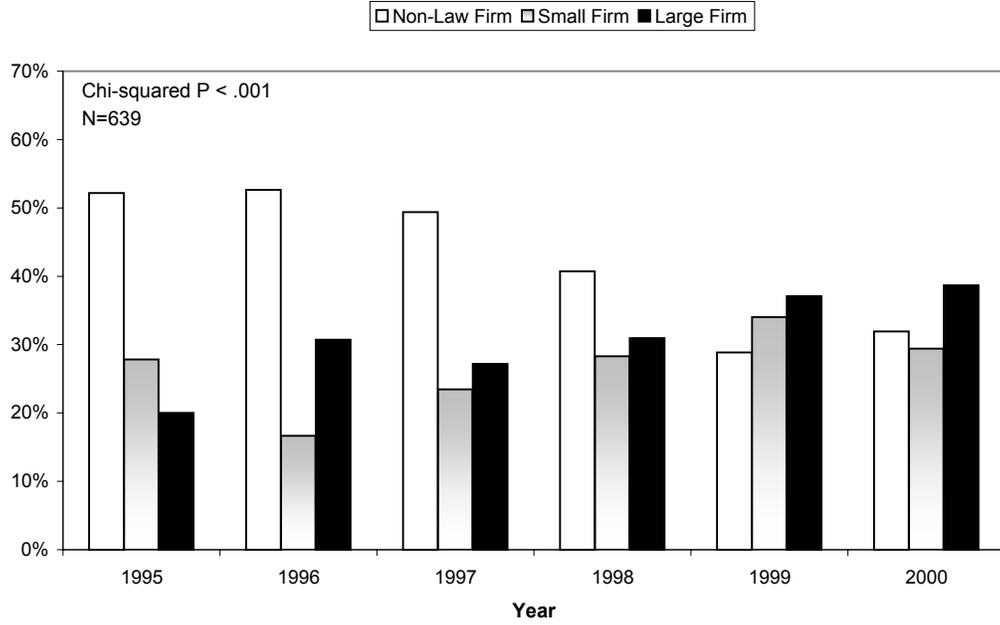
**Adjusted Odds Ratios (AOR) and Confidence Intervals (CI)**

	Large		Small	
	AOR	CI	AOR	CI
1995	2.16	( 1.27 , 3.66 )	1.44	( 0.91 , 2.28 )
1996	2.73	( 1.72 , 4.35 )	0.77	( 0.45 , 1.33 )
1997	2.17	( 1.24 , 3.81 )	0.79	( 0.45 , 1.40 )
1998	1.67	( 1.05 , 2.72 )	0.88	( 0.54 , 1.42 )
1999	2.56	( 1.51 , 4.34 )	1.20	( 0.71 , 2.02 )
2000	2.06	( 1.30 , 3.27 )	0.90	( 0.56 , 1.46 )

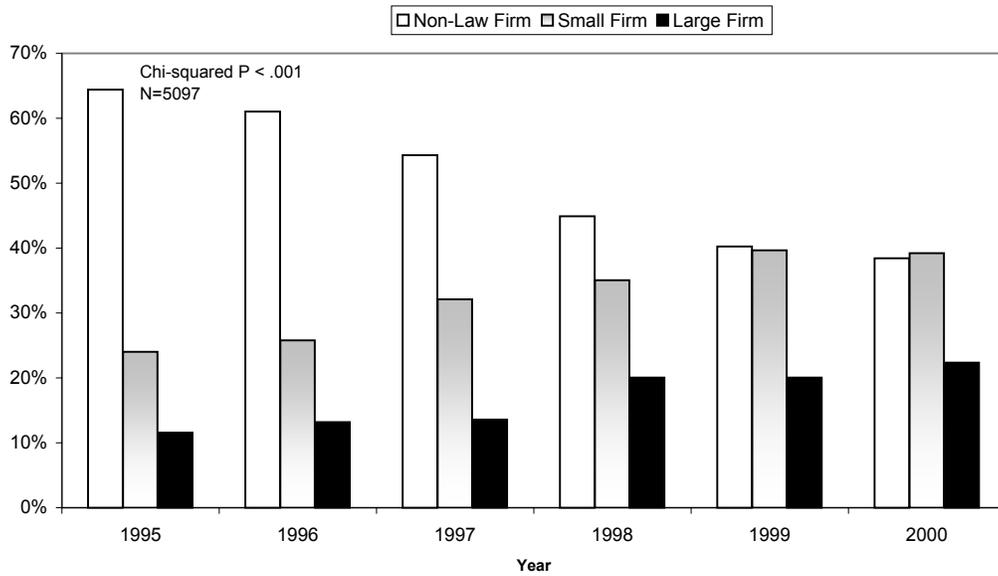
Relative odds of choosing a large or small site of employment versus a non-law firm for UofT graduates as compared to other institutions. Regression model includes gender.

In another regression model that included a time-institution interaction term the interaction was not significant,  $p=0.637$ .

**Figure 11a**  
**Law Society of Upper Canada**  
**Proportion of UofT Graduates by**  
**Size and Type of Firm of Employment**



**Figure 11b**  
**Law Society of Upper Canada**  
**Proportion of Graduates from Other Institutions by**  
**Size and Type of Firm of Employment**



## Appendix 1 – Methodology Memorandum

### Memorandum

**To:** Members of the Committee on Academic Policy and Programs

**From:** Shirley Neuman

**Date:** December 15, 2002

**Re:** Study of Accessibility and Career Choice in the Faculty of Law (Memo of November 25, 2002 amended in light of commitments made at the meeting of the Committee on Academic Policy and Programs at which the methodology for the Law School Tuition and Accessibility Studies was endorsed)

*What follows is the November 25, 2002 memo discussed and endorsed at the Committee on Academic Policy and Programs, and endorsed at its meeting of November 27, 2002, as amended in light of commitments made by the Provost at that meeting. The changes resulting from the discussion at AP&P are highlighted in bold italic type in the text.*

At its May 2, 2002 meeting, the Governing Council approved the following motion:

That there be no further substantial increase in tuition fees for the JD program in the Faculty of Law until the Governing Council is satisfied that there has been no reduction in accessibility due to the 2002-03 tuition increase and no career distortion due to previous substantial increases based upon a comprehensive Accessibility and Career Choice Review to be conducted by the Provost's Office.

The Governing Council also made clear its expectation that governors also wished to approve the methodology for the conduct of this study.

The study requested by Governing Council represents an elaboration of the annual report of the Vice-Provost, Students, on financial accessibility, which is submitted to governance through the Committee on Academic Policy and Programs. The Committee is therefore the appropriate governance venue for endorsement of the outline of the methodology proposed for this study. All governors have been informed that this methodology will be discussed at the November 27 meeting of the Committee and have been invited to attend. The Provost also held an information session for all interested governors. She has further consulted with the President of the Legal Aid Society and his assistant (at her request) and with four University of Toronto Law Alumni (at their request). And, at her request, she has held an information and consultation open meeting with law students and faculty and a meeting with the Faculty of Law Accessibility Committee.

What follows is a general outline of the methodology to be employed in the Accessibility and Career Choice study. It must be recognized that flexibility will be required to take account of what the data allow and what modifications are required as the analysis proceeds.

## Financial Accessibility:

### Research questions:

- *Has the proportion of students from lower-income backgrounds declined as tuition fees have increased in the Faculty of Law?*
- *Has the proportion of students who are women or members of visible minority groups declined as tuition fees have increased?*
- *Has the U of T share of the pool of Canadian students applying to law schools declined as tuition fees have increased?*

### Source of data:

- Admissions Statistics, Faculty of Law. Data includes number of applications, offers made, deferrals (students admitted, but deferred taking up admission for one year), accepted/registered student numbers, and number of students turning down offers.
- “Other Admission Statistics, Faculty of Law.” Data includes Median LSAT, gender breakdown, number of visible minorities applying and admitted and number of aboriginals applying and admitted from 95/96 through 02/03; number of black students applying and admitted from 99/00 to 02/03
- Record of Application cycle, through mid-July of each of 4 years: 2001/02; 2000/01; 1995/96; 1992/93. Each record tallies individuals with a Canadian province as province of permanent residence or with a Canadian mailing address, who were eligible to apply to Law school, who had an LSAT score on file, and who applied to each of the following combinations of schools: U of Toronto + other Canadian schools + U.S. schools; other Canadian schools + U.S. schools; U of Toronto + U.S. schools; U of Toronto + other Canadian schools; U.S. schools only; other Canadian schools only; U of Toronto only; no Canadian or U.S. schools. Numbers in each category are broken down by LSAT score. The data allows comparison over a decade, of the share of the “pool” that is applying to the University of Toronto.
- Socio-economic data for First Year Class. Data is available for approximately two-thirds of the class in any given year; approximately one-third (who do not request financial aid) do not report income. Data is available for 1999-2000 through 2002-2003.

### Mode of analysis:

- Observation of trends and test for statistical significance of differences in the proportion of students with parental income in the following categories: **<\$60,000**, 60,000 – 90,000, >90,000. ***In a second observation of trends, and at the request of the Committee on Academic Policy and Programs the data will be broken down by income increments of \$10,000, up to \$250,000. (The committee has been informed that “disaggregating the data into very discrete categories could yield numbers so small that statistically significant results would be unlikely to be found.”)*** Data for the entering class of 2002 will be compared with data for the entering class of each of the three previous years. Data for the entering class of 2002 will also be compared with blended data for the previous three years.

- Observation of trends and test for statistical significance of differences in the proportion of women in the 2002 entering class with the previous years.
- Observation of trends and test for statistical significance of differences in the proportion of visible minorities in the 2002 entering class with the previous years.
- Observation of trends and test for statistical differences in numbers of applications, offers, and acceptances of offers over the period 1995/96 to 2002/03.
- Observation of trends and test for statistical differences in numbers of applications as a proportion of the eligible pool within Canada using the two most recent years and two years from a decade ago.

### Career Choice:

#### Research question:

- *Are increases in tuition fees paid over the course of the LL.B/J.D. program associated with the choice of (1) articling position (2) subsequent career?*

#### Sources of Data:

- Literature review of studies addressing the question of the impact of tuition increases on career choice.
- Law Society of Upper Canada (LSUC): annual records of articling students (1995-2002) for all positions in Ontario;
- LSUC Member's Annual Report for 2002 for those who graduated between 1995 and 2001. (Note that this captures only lawyers licensed to practice in Ontario. About 70-80% of U of T Law grads practice in Ontario, according to Faculty of Law estimates.)
- *Databases in the Career Services Office of the Faculty of Law*

#### Mode of analysis:

- multiple regression: This mode of analysis allows us to look at the impact of tuition changes on choice of articling position and subsequent career choice, controlling for other factors that might also have an impact.
- Specifically, we will do regression analyses that include:
  1. *Association with place of articling* (large/small firm/non-law-firm i.e. government, NGO) of:
    - graduation from U of T (vs other Ontario law schools);
    - year of graduation (proxy for tuition);
    - other factors such as: number of articling positions available in each category; economic indicators.
  2. *Association with locus of ongoing employment* (large/small firm/non-law-firm i.e. government, NGO) of:
    - graduation from U of T (vs other Ontario law schools);

- year of graduation (proxy for tuition);
  - other factors such as: number of articling positions available in each category; economic indicators; place of articling.
3. **Association with likelihood of practicing in “public interest” law** (at least 20% of time in areas such as environmental law, refugee and immigration law, family law, labour law, workplace health and safety, criminal defense) of:
- graduation from U of T (vs other Ontario law schools);
  - year of graduation (proxy for tuition);
  - other factors such as: locus of on-going employment; economic indicators;
4. **Association with likelihood of accepting legal aid work** of:
- graduation from U of T (vs other Ontario law schools);
  - year of graduation (proxy for tuition);
  - other **environmental** factors such as: locus of on-going employment, economic indicators, **changes to legal aid funding policy**.

The Law Society has undertaken to confirm the feasibility of and time-frame for providing these data by the end of November. The Provost’s Office will also seek to obtain additional data, such as those regarding starting salaries in various of the above categories, from sources such as the Canadian Bar Association.

In developing this methodology, we have consulted with the following groups:

- The President and an accompanying member of the Legal Aid Society (at my request)
- Four faculty of Law alumni (at their request)
- The Law Society of Upper Canada (following their offer to help with the Study)
- The Faculty of Law Accessibility Committee (at my request)
- Faculty of law students and faculty in an open meeting (at my request)
- 19 members of Governing Council in an “off-line” information session

I seek the Committee’s approval of the following motion:

That the general methodological framework for the Provost’s study of Accessibility and Career Choice in the Faculty of Law, as described in the Provost’s memo of November 25, 2002, be endorsed.

## Appendix 2

### Statistical methods

Comparisons of proportions are made using the *chi-squared test*. This test compares proportions across categories to assess if they are different from what may have occurred by chance alone.

The *chi-squared test for trend* is used to compare proportions across several categories and to determine whether a trend that is observed is one that could have occurred by chance.

A *p-value* is the expression of the probability that a test result that is observed could have occurred by chance alone. For example a p-value of 0.10 means that the observed results could occur by chance 1 time out of 10. The lower the p-value, the less likely a result could have been observed by chance alone. Usually, a p-value of less than 0.05 is considered to be statistically significant.

The strength of an association can be expressed as an *odds ratio*. This represents how much more likely one group is to have an event as compared to another. For example, saying that the odds ratio of success for group A is 2 compared to group B, means that someone in group A is twice as likely to be successful as someone in group B. *Confidence intervals* represents the range of values which is likely to include the true odds ratio, usually in terms of 95% confidence. The width of the confidence interval gives a sense of how uncertain we are about the odds ratio.

The effect of several variables simultaneously is examined using *regression models*. We use *logistic regressions* where the dependent variables are categorical (e.g., site of articling).

In order to assess whether the time trends for the University of Toronto, versus other Ontario law faculty graduates are different, we include an *interaction term* between the time and University variable in the regression model. If this interaction term is statistically significant, then a difference in trends is not likely to have arisen by chance alone.

**Appendix 3**  
Career Choice Literature Review

**Accessibility and Career Choice Review**

**A Review of Related Literature**

Prepared for the Office of the Vice-President and Provost  
University of Toronto

October 2002

David Stager  
Professor Emeritus of Economics  
University of Toronto

## Introduction

At the meeting of the Governing Council on May 2, 2002, a resolution was passed that requested the Provost's Office to review the possible effects of tuition fee increases in the Faculty of Law on accessibility and career choices.

This review of the literature is a component of that review, in an effort to benefit from research on these two questions:

- What effect does an increase in tuition fees for law degree programs have on the probability of a student enrolling in the program?
- What effect does a debt incurred to finance law studies have on a graduate's decision about the area of law in which to practise or other employment options?

In conducting the review of the research literature, an effort has been made to search (throughout the English-speaking world) the major scholarly journals in law, economics, education, and sociology that are known to have published articles on topics relating to these questions.

The period of search was limited to years since the mid-1980s. The search has proceeded by using search engines on the internet to look both for journal articles and for research reports that might not have appeared in journals; searches within the on-line journals at the University of Toronto libraries; direct review of hard-copy issues of journals that are not on-line; and enquiries to organizations that have a direct interest in these issues.

This search has made two major findings on the availability of relevant literature:

- Very little (in fact, apparently nothing) has been published on the question of the effect of tuition fee increases on accessibility to law school.
- There has been significant attention to the effect of debt load on the choice of area of practice, resulting in a few very good articles, and an exceptionally robust research project, on this issue.

Consequently, in this review, the logical order for presentation of the findings is reversed, with articles relating to the possible steering effects of law school debt being presented first, followed by indirectly-related materials on tuition fees and accessibility.

Before proceeding further, it should be acknowledged that the time for the literature search was constrained by the need to report promptly to the Governing Council. It is possible that a longer search would have found more material, with more time to make personal enquiries. But the search functions both on the internet and within the Library are so effective that it is unlikely that more useful material would be found. Nonetheless, if readers know of other references relevant to these questions, they are encouraged to pass this information to the author through the Provost's Office.

## Potential Steering Effect of Law School Debt on Choice of Employment

### *NYU Law School Symposium, 1988*

The most significant work on the potential steering effect of a law student's debt on choice of employment was stimulated by a conference held almost fifteen years ago. A symposium was held at the NYU School of Law on April 15, 1988, titled "Law Student Debt, the Salary 'Gap' and Their Impact on the Legal Profession."

The several papers presented at the symposium were published the following year in the *Journal of Legal Education*, 1989, vol 39. Since the impetus for the symposium was that there should be an assessment of loan forgiveness programs, the title for the journal issue (no. 5) was *Financing Legal Education: Loan Forgiveness Programs*.

The following list of the articles indicates the wide range of topics addressed by the authors:

- Chase, Oscar G., "Financing Legal Education: Loan Forgiveness Programs: Introduction."  
 Ehrenberg, Ronald G., "An Economic Analysis of the Market for Law School Students."  
 Kramer, John R., "Who Will Pay the Piper Or Leave the Check on the Table for the Other Guy."  
 Yarborough, Marilyn V., "Minority Students and Debt: Limiting Limited Career Options."  
 Chambers, David L., "Educational Debts and the Worsening Position of Small-Firm, Government, and Legal-Services Lawyers."  
 White, James P., "The Impact of Law Student Debt upon the Legal Profession."  
 Beriss, Michael, "New York University School of Law's Low Income Loan Assistance Program--LILAP."  
 Vernon, David H., "Educational Debt Burden: Law School Assistance Programs--A Review of Existing Programs and a Proposed New Approach."

The main findings or comments to be derived from these articles are quoted or paraphrased below.

**Chase** (a professor of law at NYU) provides an overview of the other papers, noting that "All of the presenters supported loan forgiveness programs." But he then also identifies the issue that motivates all of the subsequent studies concerning debt and career choice, namely, that there is an "*absence of evidence that, because of student debt, public interest agencies cannot attract qualified employees.*"

**Ehrenberg** (a labour economist at Cornell, who subsequently wrote a book on university costs and financing following his term as vice-president at Cornell). Ehrenberg analyzed data based on all US accredited law schools, with respect to: graduates' starting salaries, tuition fees, faculty salaries, school rankings/ratings, etc. He concludes:

What emerges overall is a rather consistent pattern of results. There are financial benefits, in the form of higher starting salaries to attending higher rated law schools and, other things equal, private law schools. Because of this, higher rated [public] law schools and private law schools are able to charge higher tuitions. The higher tuitions allow them to

pay higher faculty salaries, which presumably are used to attract and retain higher-quality faculty. Given the rating of a law school, however, there is a limit to how high it can raise its tuition...

He therefore moves on to consider the design of financial aid policies, noting that such design "is not as simple as one might think." Using a detailed analytical model to examine aid alternatives, he concludes that "contingent loan forgiveness programs that are announced prior to students enrolling in law school appear to make more sense than does direct scholarship aid for these students."

**Kramer** (dean and professor of law at Tulane University) considers a wide range of data sets and concludes that "*There is no convincing evidence that debt burdens significantly affect job choice and careers paths*" But he does argue that the apparently decreasing proportion of law graduates entering public service jobs is not due to the graduates' preferences but to the relative lack of such jobs, and that the onus therefore is on the public sector to create the demand for law graduates.

With respect to the specific experience of minority groups, his conclusion is strongly stated: that all law schools should "devote the lion's share" of their scholarship monies "exclusively for grants to persons of color."

**Yarborough** (dean and professor of law at the University of Tennessee) also concludes that "*there are no hard data linking loan burden with job choice.*" But she also notes that even if such a link were found in the evidence, there would remain the question of causality: "Do students borrow more when they expect to enter high paying fields or do they enter high paying fields because they have large debts to repay?" Yarborough's specific focus, however, is on black students and their difficulty in finding jobs in private law firms. Consequently they are 2.5 times more likely to enter public service employment than are Caucasian law students.

**Chambers** (a professor of law at the University of Michigan) draws on evidence from the University of Michigan, to conclude that, as did the other presenters, "*students with high debts are not entering the large firms at any greater rate than students with low debts or no debts.*" He attributes the relative decline in the numbers entering public service to the widening gap between earnings in the large firms and in the public service. He remains skeptical, however, and suggests that larger debt relief programs may attract more persons into the public service. As it will be seen below, Chambers returned to the question in a 1992 article.

**White** (a professor of law at Indiana University), had [in the author's opinion] nothing further of substance to add to the discussion beyond what had been covered - using more empirical evidence - by the preceding presenters.

**Vernon** (a professor of law at the University of Iowa) presented several suggestions for modifications to the common LRAP programs and also offered proposals for other versions of loan/debt assistance programs. These are interesting, even novel, but do not bear directly on the central question of the debt/career choice linkage.

***LRAP (Loan Repayment Assistance Program)***

Since the NYU Symposium focused on loan assistance/forgiveness programs, it may be useful to summarize the key features of such programs (widely known as LRAPs) at this point. Much of the information is drawn from the websites of law schools which have LRAPs in place.

By 2001, about of 46 American law schools and four state governments had a Loan Repayment Assistance Program (LRAP). The purpose of this program is to enable an increased number of law graduates to pursue government or public service careers.

In 1974, Harvard Law School initiated the first program of this type. The programs vary widely in terms of eligibility, total amounts expended, number of recipients, and other programmatic details. The most recent readily available data are provided by the National Association for Public Interest Law (NAPIL) in its 2000 report, *Financing the Future*.

Among American law schools, for the class that graduated in 2001, 74 percent had law school loans with an average debt load of \$74,300.

Assistance schedules vary, but typically the school will pay up to 100 per cent loan forgiveness for adjusted gross income below \$25,000; 50 percent forgiveness at \$35,000; and 25 percent forgiveness at \$40,000, up to a maximum of \$45,000. Participants are eligible for LRAP payments for a maximum of ten years after graduation from law school.

LRAP funds usually are available only for loans secured during law school; eligible students must be engaged in full time federal, state, or local government employment or in full time public service that is law related.

Total amounts expended were extraordinarily varied among schools. This has led to widely varied participation rates in LRAP programs. At 13 of 42 reporting schools, the number of participants is less than 1 percent of its current student enrollment; at 20 schools, the number of participants is between 1 and 5 percent; at 9 schools, the participation percentage is above 5 percent. Seven of these nine programs provide LRAP funds for judicial clerkships. Law schools generally provide the LRAP funds from their budgets for student tuition remission and scholarship programs.

The LRAP program usually is a defined contribution plan with the school's liability in any given year not greater than a specified allocation of law school funds to the LRAP. If the school's defined contribution for a given year is less than total qualifying requests, the actual disbursements to participants is reduced on a pro rata basis.

### ***Joint Task Force study, 1992***

Chambers, David L. 1992. "The Burdens of Educational Loans: The Impacts of Debt on Job Choice and Standards of Living for Students at Nine American Law Schools," *Journal of Legal Education*, 42, 187-231.

Chambers was a professor of law at the University of Michigan and a member of the Law School Admission Council, which was a sponsor of the study, along with the Association of American Law Schools and the American Bar Association.

As a follow-up to the NYU 1988 symposium, Chambers proposed a questionnaire survey of the 1989 law graduates. Nine law schools were included; these are not identified in the article but Chambers describes them as "well-established, long-term" and selected to represent a wide range of tuition fees and social characteristics of students.

A key question for the study was again "whether students' concern about the burden of high debts affects the choices they are making about the kinds of jobs to seek upon graduation." But Chambers recognizes the same causality puzzle raised above by Yarborough: do students go to high-earning firms because of their debts, or do students undertake higher debts because they plan to go to the large firms? He states: "...high debts reflect high tuition and, within our sample, the high tuition schools are sending greater numbers of their graduates into large-firm private practice for reasons that may or may not have anything to do with debts."

Nonetheless, the results of analysis are that "...*educational debt does seem related to job choice, although mildly and weakly, much more weakly than some other factors*" such as grade level: the higher the grades, the more likely the student is to go into a large firm.

In the end, Chambers concludes that "the apparent impact of debt is so slight that it remains possible that some other factors we are not yet able to measure will account for the small relationship between debt and job choice," and that: "...*it may be that the effects of the salary gap among settings is so overwhelming that, even if everyone's educational debts were completely forgiven at the end of law school, almost all students would make the same job choices that they do today.*"

### ***Kornhauser/Revesz study, 1995***

Kornhauser, Lewis A, and Richard L Revesz. 1995. "Legal Education and Entry into the Legal Profession: The Role of Race, Gender, and Educational Debt," *New York University Law Review*, 70, 829-964.

Kornhauser and Revesz are both professors of law at New York University.

This is the 'block-buster' study on the issue of the steering effect of debt on job choice. At 139 pages in length, it presents a comprehensive report on a major study that was able to use sophisticated econometric tools to analyze a rich set of data.

The study was based on data drawn from two law schools, New York University and the University of Michigan, for which the authors could obtain detailed data on a wide range of variables, for about 1600 graduates from NYU and 1400 from Michigan. To explain the pattern of first employment among graduates, the authors used an econometric technique known as a conditional logit model.

The abstract for this article is so concise and comprehensive that it is worth quoting in its entirety:

Debt burden is routinely cited as the major force driving law school graduates to choose private practice over careers in government or other public-interest settings. In an effort to counter that force, and level the playing field with regard to career choice, many law schools have developed loan repayment assistance programs. In this Article, through sophisticated empirical analysis, Professors Kornhauser and Revesz reveal that educational debt lacks the force routinely ascribed to it, and is in fact eclipsed as a determinant of career choice by such other factors as income in different sectors of the legal profession, race, performance in law school, and career plans prior to and during law school. These results lead the authors to question the efficacy of loan repayment assistance programs, and to propose instead a system of scholarships for students with a strong commitment to a career in the public sector. On the strength of the authors' analysis and recommendations, New York University School of Law has inaugurated a \$10 million public-service scholarship plan which will both test the authors' conclusions and provide a basis for further study of how financial assistance to law students may best be structured.

In order to ascertain the impact on job choice of a loan forgiveness program, the authors simulated the effect of a full (100 per cent) loan forgiveness. In the aggregate, the effects were small: *"Only about 3 % of the individuals who took for-profit jobs (either elite or non-elite) absent loan forgiveness would have, instead, taken a not-for-profit job as a result of a full loan-forgiveness program."* It is important to note, however, that for African-American and Latino women, loan forgiveness had an important impact: more than a third of those taking for-profit jobs would have selected the alternative as a result of the loan forgiveness.

The study uncovered several curious findings, such as that law school itself seems to have an effect on job choice: that is, women are more likely than men to enter law school with not-for-profit career plans, but law school disproportionately shifts their preferences towards for-profit jobs.

The results of the study led the authors to propose an innovative scholarship program. An anonymous donor agreed to provide \$10 million for a program that would be available to the graduating classes of 1998, 1999, and 2000 at NYU Law school:

Under this program, any individual who is employed for the first ten years following graduation, in a position that pays no more than the prevailing public-service salary for an attorney an equivalent number of years out of law school, will not bear any of the costs of her [*sic*, but to be interpreted as his/her] legal education.

The authors came to this proposal following the criticisms of the LRAP programs that are implicit in their findings: first, that debt burden is not an important determinant of career choice, except for African-American and Latino women; second, that career plans [i.e. career intentions prior to entering law school] play an important role in determining job choice; and third, that race is an important determinant of career choice. After adjusting for other factors, African-American and Latinos, both male and female, are more likely to take not-for-profit jobs.

Finally, the authors recognized that, while the study has yielded strong conclusions, "they ought to be reexamined in the coming years." Regrettably, this literature search has found no reference

to more recent studies of this kind. Perhaps there has been more widespread recognition and acceptance of the findings, and/or still more years must intervene before a similar study is deemed to be warranted, or there may simply be a lack of research funding.

### ***Olivas survey, 1999***

Olivas, Michael A. 1999. "Paying for a Law Degree: Trends in Student Borrowing and the Ability to Repay Debt," *Journal of Legal Education*, 49, (3) 333-341.

Olivas is a professor of law and director of the Institute for Higher Education Law and Governance at the University of Houston.

This paper takes a wide sweep across the horizon with respect to students' costs and financing for law school. Although Olivas cites many references and data sources, there is little here that contributes to the questions at hand. Although Olivas is concerned about increasing tuition fees and the associated debt loads, he concludes that "despite all the problems identified in this article and all the unknowns, this may be the golden age of financial aid."

### ***Law Student 2000***

The following item offers no research findings that are directly related to the questions at hand, but it is included here to show that studies of law undergraduates are underway on a large scale in other than the United States, and because it is a project that warrants watching over the next few years.

Law Student 2000 is a project of UKCLE (United Kingdom Centre for Legal Education). This is a study following a cohort of students through the three years of their law degree at English universities. The completion date is June 2004.

The study focuses on the issues of fees, debt, part-time work and aspirations to enter the legal profession. It includes over 40 law schools in England, covering a wide geographical area and both old and new universities. The project is based on a questionnaire issued to students in each year of their degree course, following a cohort of students through their three year degree. The aim is to give a clear picture of student expectations at the start of their course and to see how these change through experience, to act as a counterbalance to the many anecdotal views about law students. More information is available on-line at [www.ukcla.ac.uk/research/cuthbert.html](http://www.ukcla.ac.uk/research/cuthbert.html).

### ***Related Literature: Medical Schools***

Kwong, Jeff C., Irfan A. Dhalla, David L. Streiner, Ralph E. Baddour, Andrea E. Waddell and Ian L. Johnson. 2002. "Effects of rising tuition fees on medical school class composition and financial outlook," *Canadian Medical Association Journal*, 166(8), 1023-1028.

This study, based at the University of Toronto, drew on the data obtained from an internet survey of all students at Canadian medical schools.

Only one part of the study was concerned with the steering effects of student debt at graduation. The authors noted that "several US investigators have attempted to elucidate the effects of debt on medical students' career choice. Most have found that debt is a small but significant influence away from a career in primary care, but others have reported no such effect." By contrast the authors of this study found that, "among Canadian medical students, financial considerations were reported to be much more important, in terms of specialty choice and practice location, for those at schools with high tuition fees than for the control subjects."

It must be noted, however, that this study asked students about their possible future decisions rather than observing where students actually went after graduation. The patterns of intention and actual decision may not differ, but it should be examined further.

Woodworth, Philip A., Chang, Frederic C., Helmer, Stephen D. 2000. "Debt and other influences on career choices among surgical and primary care residents in a community-based hospital system," *American Journal of Surgery*, 180 (6) 570-576.

The purpose of the study was specifically to evaluate debt and other factors that influence medical graduate's choice between a career in a surgical specialty or in primary care. Residents in surgical specialties and primary care were surveyed regarding demographics, factors influencing choice of specialty, methods of financing education, debt characteristics, and outlooks regarding future earnings and practice characteristics.

The length of residency, desirable lifestyle, and working hours were all more important to primary care residents. Surgeons found intellectual challenge and procedure-based practice of greater importance. Although not highly regarded by either group, scholarship obligation and student loans had a significantly greater impact on specialty choice and practice plans for primary care residents.

Frank, Erica, and Shamiram Feinglass. 1999. "Student Loan Debt Does Not Predict Female Physicians' Choice of Primary Care Specialty," *Journal of General Internal Medicine*, 14(6), 347- 350.

The direct focus of this study was on the relation between ultimately choosing to be a primary care physician and one's amount of student loan debt at medical school graduation. Data were drawn from the Women Physicians Health Study, a large, nationally representative, questionnaire-based study of 4,501 U.S. women physicians.

While the youngest physicians were more than five times as likely as the oldest to have had some student loan debt and were also more likely to choose a primary care specialty, there nonetheless was no relation between being a primary care physician and amount of indebtedness; this was true even when the results were adjusted for the physician's decade of graduation and ethnicity.

The authors concluded therefore that "although there may be other reasons for reducing student loan debt, at least among U.S. women physicians, encouraging primary care as a specialty choice may not be a reason for doing so."

There are four or five other articles in the medical journals relating to these topics, but since the results are substantially similar it was decided not to extend the review in this related area.

## Tuition Fees and Accessibility to Law School

Despite a diligent search of the literature, as described in the Introduction to this review, it was not possible to find any article reporting research on the impact of rising tuition fees on accessibility to law schools.

This discovery was rather surprising, given the enormous quantity and quality of research effort that has been devoted over the past fifty years to studying the factors explaining participation in post-secondary education, and especially the effect of tuition fees and other costs. The emphasis in that research has, however, been on the transition from school to college and university. Both the research and the student aid policies have addressed primarily the issue of accessibility for students from lower-income families. And it is only in the past decade or so that attention has also been paid to factors explaining retention or persistence of students in the programs past the first year.

As several researchers in the economics and sociology of education have commented, and as Baker and Velez in the article below state concisely, there " has been a shift in emphasis in financial aid policy away from ensuring access to higher education for lower-income students and toward ensuring affordability for middle-income students." It would appear that grant programs based on research in earlier decades have overcome much of the financial barrier to further education, and that the focus had shifted to various loan programs for the middle-income students who do not qualify for substantial, if any, grant aid.

This review could have entered into that large domaine that deals with the high school/university interface, but the issues differ substantially from the matter of entering a second-degree program. Since potential law school students have not only completed some or all of a university program, but also have historically come predominantly from families whose income was higher than the average for all university students, it is likely that the paucity of research in this area means that researchers and policy-makers have implicitly assumed that this is not an area of high-priority research.

### *Reviews of the Literature on Accessibility*

Notwithstanding the above observations on the differences between entering first- and second-degree programs, the following two references have been included as sources for information and reference on the general topic of access to post-secondary education from high school.

Baker, Therese L. and William Vélez .1996. "Access To And Opportunity In Postsecondary Education In The United States: A Review," *Sociology Of Education*, 69 (extra issue) 82-101.

Baker and Velez present a splendid review of the issues and research, dividing their work into separate decades from the 1960s to the 1990s. This enables a reader to trace the shift in emphasis from financial factors to the host of other influences on the participation decision, and the shift from a broad-brush approach to a sharp focus on specific groups such as visible minorities, disabled students, and native students.

Looker, E. Dianne, and Graham S. Lowe. 2001. *Post-Secondary Access and Student Financial Aid in Canada: Current Knowledge and Research Gaps*, a background paper for a Canadian Policy Research Networks Workshop on Post-Secondary Access and Student Financial Aid, 1 February 2001, Ottawa. Sponsored by the Canadian Millennium Scholarship Foundation.

As is indicated in the reference above, Looker and Lowe prepared this report for a recent conference on post-secondary education. Not only does it include very recent work, but the discussion of research findings in each section very usefully list what is known and what is not known - obviously providing an agenda for further research.

Both of these reviews confirm the research results that have been reported over the past three or four decades, namely:

1. parental education has a strong influence on a student's educational plans and ultimate enrolment
2. students' academic ability and attitude to education also influence their decisions about further education
3. the financial needs of students differ among students of apparently similar circumstances and change over their educational career
4. rising tuition costs have generally been offset by increases in financial aid
5. rising educational costs (including costs other than tuition) impose greater financial need on small, specific groups of students, including those with disabilities, single parents, from remote areas, etc., and who need specific aid programs in response.

## Summary

This literature review was directed to finding reports on research on two questions:

- What effect does an increase in tuition fees for law degree programs have on the probability of a student enrolling in the program?
- What effect does a debt incurred to finance law studies have on a graduate's decision about the area of law in which to practise or other employment options?

This search has made two major findings on the availability of relevant literature:

- Very little (apparently nothing) has been published on the effect of tuition fee increases on accessibility to law school.
- There has been significant attention to the effect of debt load on the choice of employment, resulting in a few very good articles, and a robust research project on this issue.

In this review, the logical order for presentation of the findings was reversed, with articles relating to the possible steering effects of law school debt being presented first, followed by indirectly-related materials on tuition fees and accessibility.

There have been three major studies on the effect of law student debt on career choice:

- a New York University School of Law Symposium, 1988
- a Joint Task Force study, sponsored by the Law School Admission, the Association of American Law Schools and the American Bar Association, 1992
- a study by Lewis A. Kornhauser and Richard L Revesz. both professors of law at New York University, 1995.

The basic conclusions of these three studies were that:

- "There is no convincing evidence that debt burdens significantly affect job choice and careers paths." Kramer, NYU symposium
- "...the relative decline in the numbers entering public service [is attributed] to the widening gap between earnings in the large firms and in the public service." Chambers, NYU symposium
- "...it may be that the effects of the salary gap among settings is so overwhelming that, even if everyone's educational debts were completely forgiven at the end of law school, almost all students would make the same job choices that they do today." Chambers, 1992

- "...educational debt lacks the force routinely ascribed to it, and is in fact eclipsed as a determinant of career choice by such other factors as income in different sectors of the legal profession, race, performance in law school, and career plans prior to and during law school." Kornhauser and Revesz
- "These results lead the authors to question the efficacy of loan repayment assistance programs, and to propose instead a system of scholarships for students with a strong commitment to a career in the public sector." Kornhauser and Revesz

The loan repayment assistance programs (LRAP) referred to above is in place at about of 46 American law schools and four state governments. The purpose of this program is to enable an increased number of law graduates to pursue government or public service careers.

With respect to the impact of rising tuition fees on accessibility to law schools, it was not possible to find any article reporting research on this topic.

Rather, the focus of a large body of research in this field has been on the transition from school to college and university. Both the research and the student aid policies have addressed primarily the issue of accessibility for students from lower-income families.

Two comprehensive surveys of the literature on fees and accessibility at the point of entry to colleges and universities are included in this review for possible use in other related policy decisions.

Both of these reviews confirm the research results that have been most commonly reported over the past three or four decades, namely:

- parental education and students' academic ability have a strong influence on a students' educational decisions
- rising educational costs impose greater financial need on small, specific groups of students, and who need specific aid programs in response.

### **ADDENDUM (January 13, 2003)**

*(prepared by the Office of the Vice-President, Government and Institutional Relations)*

Subsequent to the initial review by Professor Stager, two additional studies were considered worthy of inclusion for their nuanced approach to the link between tuition and access. These studies make a notable contribution to the discussion by suggesting that socioeconomic status is a much more complex factor than hitherto considered in terms of responsiveness to tuition. These papers urge caution in oversimplifying the relationship between rising tuition and enrollment levels, and urge greater attention to the nuances of family background as a highly pertinent factor to consider when designing accessibility approaches.

Black, Sandra E., and Sufi, Amir. 2002. *Who Goes to College? Differential Enrollment by Race and Family Background*, National Bureau of Economic Research Working Paper, (<http://www.nber.org/papers/w9310>).

The significance of this paper is that it makes a case for recognizing that any analysis of the effect of rising tuition must acknowledge that it is not enough simply to correlate tuition levels with overall enrollment data. The paper moves beyond stating that “tuition appears to have a significant impact on college enrollment among low-SES individuals,” to arguing that more attention must be paid to the distinctions engendered by socioeconomic status (SES) in terms of responding to tuition increases. “Earlier work that suggested that college tuition has an important impact on college enrollment behavior did not consider different responses by individuals from diverse family backgrounds. However, empirical evidence suggests that there may be diverse responses. As a result, efforts targeted at improving college enrollment among disadvantaged individuals must consider the appropriate relationship when evaluating different policies.”

Junor, Sean, and Usher, Alexander. 2002. *The Price of Knowledge: Access and Student Finance in Canada*, Canada Millennium Scholarship Foundation Research Series.

This is a very comprehensive study which presents itself as a reference work designed “to provide as complete a picture as possible of the state of knowledge about access and student finance in Canada.” It might perhaps be expected to offer conclusive comments on the relationship between tuition and access but, consistent with the experience of others, certainty on these points continues elusive. “To the extent that we know anything,” the paper says on the first page of Chapter 1, “we know that non-financial factors, taken together, constitute the most common reason why some people choose not to pursue post-secondary education. Financial factors play a role in deterring people from attending post-secondary education, but it is not clear what role, if any, is played by tuition, which is, after all, only a part of the total cost of post-secondary studies.” Where the data permits, observations are made accordingly, for example in reviewing barriers to postsecondary education the report records that “Lack of money was the most commonly cited single reason for not pursuing postsecondary education.” At the same time, the report tests the hypothesis “the higher the cost of tuition, the lower enrolment levels should be” by plotting a graph showing tuition vs. participation rates in Canada from 1980-81 to 1998-99. The resulting data show that “rising tuition has been accompanied by rising enrolment rates” and the report concludes that “increases in tuition have not affected university participation rates in any appreciable way.”

That said, however, the report wrestles with an inescapable inequality of access that is best described in the paper's Introduction: "There are certainly barriers to education, and for the most part those barriers are income-related. These barriers are not, however, just a matter of insufficient finances. They also reflect serious deficiencies in social and cultural capital among young people from lower-income families. These are problems that cannot be solved simply by writing a cheque. Future gains in access to post-secondary education will therefore depend upon society's collective ability to deal with both problems simultaneously."

Taken together, these two papers make a strong case for delving further into socioeconomic status as a complex variable influencing the responses to tuition increases and attendant enrollment decisions.





## AFRICAN CANADIAN LEGAL CLINIC

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January 29<sup>th</sup>, 2003

Governing Council  
University of Toronto  
The Office of the Governing Council  
Room 106, Simcoe Hall  
27 King's College Circle  
University of Toronto  
Toronto, Ontario M5S 1A1

Governing Council Members:

**Re: Rising Law School Tuition Fees/ Accessibility Study**

The African Canadian Legal Clinic (ACLC) is a not-for-profit legal service agency that is part of the Ontario Legal Clinic system. The ACLC was established in 1994 to address anti-Black racism and other forms of systemic and institutional discrimination in the justice system, education, employment, housing, health, and in other spheres of society. The ACLC carries out its mandate through test case litigation in collaboration with a legal committee. The ACLC also works as a community-based legal agency to address government policies and legislation that may affect the African Canadian community.

We are writing to express our concern regarding the proposed methodology of the Provost regarding the "Accessibility and Career Choice Review" mandated by your motion of May 2<sup>nd</sup>, 2002. The proposal is looking at only a small sample of individuals i.e. those who are already attending the University of Toronto and is not capturing those who cannot afford to attend at this time. Further, the methodology is quantitative in nature only and does not include any qualitative analysis of students. The analysis is not consistently disaggregated as among visible minority groups. Nor are there clear parameters on how minorities will self-identify. The questions regarding proportion of student pool are not broken down by race. There is no query as to why students might not be applying to U of T or why they may not have applied prior to recent tuition increases. That is, there is no analysis of whether existing fees operated as a barrier.

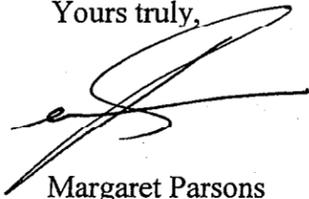
The impact of tuition fees, when deciding where to attend or if to attend law school, while in school and post graduation are not captured in the current methodology. The proposal does not look behind parental income to other encumbrances. The approach assumes access to parental income, which is an inaccurate reflection of the experiences of many African Canadians. The proposal fails to ask what is, from a non-discrimination,

equity standpoint, an essential question: what is the optimal level of minority (including African Canadian) participation and do tuition fees pose a barrier to attaining true diversity? Finally and most compelling, is the lack of community consultation associated with the proposal. If there is to be any expectation that the study will have any credibility, it must involve community input and it must comply with accepted sociological standards. At this time, it fails to do either and appears to be an attempt to rush this matter through without any true commitment to equity or human rights.

We would urge you to conduct a study utilizing an independent consultant, grounded in equity principles which includes meaningful community consultation and which is in compliance with sound social science practices.

Thank you for your consideration.

Yours truly,



Margaret Parsons  
Executive Director

cc. Law Society of Upper Canada (Equity and Aboriginal Issues Committee)  
Black Law Students Association of Canada  
Canadian Bar Association

Feb-14-2003 11:23am From-CANADIAN BAR ASSOCIATION

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**THE CANADIAN BAR ASSOCIATION  
STANDING COMMITTEE ON EQUALITY  
CONCERNS ON INCREASING TUITION FEES  
AT THE UNIVERSITY OF TORONTO  
FACULTY OF LAW**

*February 12, 2003*

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**Introduction:**

As Chair of the CBA's Standing Committee on Equality and in cooperation with the CBA's Racial Equality Implementation Committee, I am conveying to you the concerns expressed by the CBA Governing Council when it adopted a near unanimous resolution concerning proposed increases in law school tuition fees last summer (**Copy Attached**). It is with this view that the SCE expresses its concerns about the University of Toronto's intention to increase the cost of legal education and the methodology adopted to study the impact that increased tuition fees will have on access to legal education by Aboriginal peoples and diverse equity-seeking groups, eg., women, people with disabilities, individuals from subordinate racialized groups and persons from low-income families.

We raise this now as we have only recently received a copy of the proposed methodology. This copy we received through a third party and not from the Provost directly even though the Provost was aware of our interest in this matter. In receiving our submission as well as those of other interested individuals and groups, we are hopeful that the University's Governing Council will weigh the implications of its decisions very carefully and not move too hastily in supporting the proposed methodology and the results that it will generate.

To begin with, the SCE wishes to address the proposed methodology which, as we understand it, seeks to answer three specific research questions related to the enrollment in the Faculty of Law of students from low-income backgrounds as well as women and members of subordinate racialized groups. The methodology also appears to seek information regarding the share of the pool of Canadian students applying to the Faculty of Law. To assess these matters, the methodology identifies various data sources related to law school applications and provides a mode of analysis. The methodology also addresses issues concerning career choice in terms of impact of tuition fees on law students' selection of articling position and subsequent career. Data sources and mode of analysis are described for this inquiry as well.

In terms of its direction, the methodology's premise appears inappropriate. The issue is not whether the current fees present a barrier to access, although that is now being contested through a human rights complaint by numerous law students of African descent. The issue concerns the impact that an annual tuition fee of \$22,000.00 per year may have on the aforementioned student groups and whether or not such fees will pose barriers to their being able to study law. This should be the focal point of any accessibility study and a methodology addressing that question is what is needed. To expect to answer that question with the current accessibility study methodology is as dangerous as assuming that a home owner who currently has a house worth \$250,000.00 can afford one that is almost twice that amount. It's like asking that homeowner if s/he can afford what they live in now and, based on that, assuming that it is perfectly fine to double the housing cost. Given this, what appears to be the fundamental flaw of the current methodology is that it fails to ask the appropriate questions and does not seek information or even consider the cohort that will be affected by the proposed tuition fee increases.

An appropriate methodology would, first of all, seek information that will be useful to assessing the potential impact of the proposed increase in tuition costs to study at the Faculty of Law. To do this, it would then be necessary to find the right individuals who will, if it were in place, bear that cost. Those individuals are in university right now and in high school; they are the ones who will be considering law school in the future and they are the ones, including their families, who will have to pay the cost of legal education. The question they need to be asked is whether or not they think they can afford tuition fees of \$22,000.00 along with all of the other costs of a legal education, e.g., residential accommodation, books, etc.

To gauge a response to this means it is necessary to find an appropriate sample size from a specific geographic area and seek both qualitative and quantitative data. The first will certainly be impressionistic and anecdotal based on perceptions about ability to pay these fees; the latter can be based on examination of family incomes to assess the extent and capacity of disposable incomes and then to measure this against families who have members attending professional schools where similar tuition fees are charged.

#### **Evidence of Negative Impact:**

For example, as the report from the Equity Initiatives Department to the Law Society of Upper Canada indicated about a year ago:

1. In 1998 Statistics Canada data revealed a particularly pronounced gap between high-income and low-income families in regard to university education participation. That data indicates that 38.7% of youth aged 18-21 years from wealthy families attended university compared to 18.8% of youth from poorer families.<sup>1</sup>
2. A February 2000 research report released by the Canadian Association of University Teachers also concluded that Canadian families have significantly increased their education-related expenditures in recent years largely due to increasing tuition fees and that the increasing cost of post-secondary education has placed a considerable burden on low- and middle-income households. It also suggests that if current trends continue, access to post-secondary education will be increasingly divided along income lines.<sup>2</sup>
3. A study at the University of Western Ontario showed that, after medical tuition fees were increased from \$4,844 to \$10,753, the average family income of first year medical students increased from \$80,000 in 1998 to \$140,000 in 2000. This study led the Ontario Medical Association to call for a freeze on tuition increases at the province's medical schools until accessibility to medical education can be reviewed.

1. <sup>1</sup> See Statistics Canada Participation in Postsecondary Education and Family Income@. The Daily. Dec 7, 2001 @ www.statscan.ca

2. <sup>2</sup> See the Canadian Association of University Teachers= Out of Reach: Trends in Household Spending on Education (2000) as cited in CAUT Communiqué, Feb 22, 2000

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Concern has been expressed by the National Professional Association Coalition on Tuition<sup>3</sup> (NPACT) who, in a written submission to the federal government in September 2000, stated that NPACT is "...very concerned that high post secondary tuition fees in professional programs create barriers to access to education and, as a consequence, threaten the supply of professionals required to serve the needs of the Canadian public."

4. If the above perspective can be supported, the continuing increase in law school tuition will clearly have a negative impact on Aboriginal peoples and equity-seeking groups (particularly subordinate racialized groups, mature students, persons with disabilities and single parents who are predominantly women). According to analyses of recent census data, despite their educational achievements, these groups tend to fall below the Low-Income Cut Off (LICO) more so than others. They tend to be either under-employed, unemployed or reliant on transfer payments more so than other groups and have not been able to translate their educational achievement into increased income and professional success<sup>4</sup>. This has historically been the case and there are various reasons for these circumstances including recent immigration status and discriminatory barriers within workplaces, educational institutions and other public spheres. The result of this is lowered earnings for members of these communities, which leaves them less able to support the educational advancement of their children, particularly at the post-graduate level, including medical and law school<sup>5</sup>.

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3. <sup>3</sup> The National Professional Association Coalition on Tuition (NPACT) is a non-profit, voluntary group established in May 2000 in response to concerns regarding increasing tuition fees at postsecondary educational institutions, and the adverse impact that high tuition fees has on access to education. National professional associations involved in NPACT include: the Canadian Bar Association, the Canadian Dental Association, the Canadian Federation of Students, the Canadian Medical Association, the Canadian Nurses Association, the Canadian Pharmacists Association, Canadian Physiotherapy Association, the Canadian Veterinary Medical Association, and the Royal Architectural Association.

4. <sup>4</sup> See: Edward N. Herberg, *The Ethno-Racial Socioeconomic Hierarchy in Canada: Theory and Analysis of the Vertical Mosaic*, (1990), *International Journal of Comparative Sociology*, XXXI, 3-4, September December; Tana Turner: *The Composition and Implications of Metropolitan Toronto's Ethnic, Racial And Linguistic Populations*, (1990) Municipality of Metropolitan Toronto, Multicultural and Race Relations Division, Chief Administrative Officer's Department; and *The Composition and Implications of Metropolitan Toronto's Ethnic, Racial and Linguistic Populations*, (1995) Municipality of Metropolitan Toronto, Access and Equity Centre; K. Pendakur and R. Pendakur, *Earning Differentials Among Ethnic Groups in Canada*, (1996), *Strategic Research and Analysis, Department of Canadian Heritage*; Michael Ornstein *Ethno-Racial Inequality in the City of Toronto: An Analysis of the 1996 Census*, (May 2000) City of Toronto and Centre for Excellence for Research on Immigrant Settlement; and Canadian Council on Social Development *Unequal Access: A Canadian Profile of Racial Differences in Education, Employment and Income*.

5. <sup>5</sup> A full discussion on barriers to legal education is provided in *At the Foot of the Walls of Jericho: Future Directions for Equity and Diversity in Legal Education*,

5. In a November 2001 report, Legal Aid Ontario identified the debt incurred during law school as a threat to the long-term sustainability of Legal Aid Ontario.<sup>6</sup> That report stated that new, young lawyers who are vital to the certificate program's future can ill afford to consider legal aid certificates.
6. The NPACT believes that high tuition fees have a significant impact on current and future students, as well as on professional services offered to the public. NPACT's position paper identifies the following impacts: education for the affluent and a less diverse workforce; exacerbating the brain drain to the U.S.; decreased access to professional services; effects on the health and well-being of students; insufficient public funding and increasing dependence on bank loans; previous education debt and accumulative debt; decreased pay and potential and limited ability to pay off debts quickly; and adverse effects on the Canadian economy.<sup>7</sup>

It is surprising that none of this data is addressed in the current methodology despite its being public through a report to the governing body of the Ontario legal profession, an organization that is providing the University with other data.

#### **The Current Methodology:**

The current methodology being promoted by the Provost will not be able to examine these types of issues. It is focused on the current and most recent years and ignores altogether the proposed tuition fee for the future years. It ignores comparative studies done by reputable institutions both locally and nationally and it fails to even make use of data that had been gathered by one of the institutions it is reliant on for information, the Law Society of Upper Canada.

Rather than analyze and consider these documents, the current methodology will instead make judgments about future accessibility based on responses to current tuition fees. While this exploration may draw out some useful data, even in doing so it misses a number of key points, including:

- The methodology appears not to have been assessed by an outside third party. As such, there is some concern on its overall reliability and of the appropriateness of the data samples that it will explore. For example, the data identified in the methodology have been gathered for administrative purposes and were likely not contemplated to

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(2000) Equity Initiatives Department, Law Society of Upper Canada. In terms of specific barriers facing Aboriginal peoples see *Addressing Discriminatory Barriers Facing Aboriginal Law Students and Lawyers*, (April 2000) Law Society of British Columbia.

6. <sup>6</sup> See *Legal Aid in Ontario: Tariff Reform Business Case* (November 2001) Legal Aid Ontario

7. <sup>7</sup> See NPACT Position Paper on the Effects of High Tuition Fees, submitted to the Standing Committee on Finance, September 2000. These concerns were again raised in NPACT's November 2001 submission to the Standing Committee on Finance.

be used for the purpose of this research. This poses serious concerns regarding the reliability of the data and its uses. Administrative data is ordinarily collected for bureaucratic functions and are generally not suited to specific research purposes, which are better managed through carefully crafted and purposeful data collection methodologies.

- Further, the methodology demonstrates some internal inconsistencies. For example, page 1 of the Provost's memo suggests in the research questions that the data will be gathered to see if there is a decline in enrollment from Aboriginal and equity-seeking groups while, at the same time, examining to see if there is a decrease in applications by Canadian students. The research questions do not address whether or not there will be a decline in applications by Aboriginal peoples and individuals from equity-seeking groups. This means it will not be able to determine any drop off in applications from these communities and will not be able to assess the pool of potentially qualified candidates who may simply not apply.
- The methodology does not address concerns of people with disabilities and becomes further strained on page 2 where it is indicated that the sources of data gathered will provide insight into record of application by Aboriginal peoples and individuals from other equity-seeking groups. This data is to be drawn from the "Other Admission Statistics, Faculty of Law". This exploration contradicts the stated research questions which seek to gather application data from Canadian students applying to law schools and does not specifically address data on applications from the Aboriginal peoples and individuals from subordinate racialized groups. Further, it is unclear as to why this data is separate from the "Record of Application" data, which appears to be the data, source for examining applications to the Faculty of Law. It is critical to understand the relationship between these two data sources in order to ensure they are equally reliable and comparable.
- On page 2, it is noted that socio-economic data is only available for two-thirds of the class in any given year. There is nothing noted regarding the other 33% except that they do not request financial aid. This is a significant amount of data to be missing and its absence poses serious questions about the reliability of the socio-economic data on students. It cannot be assumed that simply because students do not seek financial assistance that they are financially well-off. Further, any correlates of this data with race, gender, Aboriginal status and other personal characteristics will also be affected by the absence of this information.
- On page 3, the methodology indicates its reliance on data from the Law Society of Upper Canada. There are two concerns here: (1) the Law Society has over the past years gathered data on barriers faced by Aboriginal peoples and individuals from subordinate racialized communities to highly competitive and lucrative articling positions in large, prestigious law firms. This concern has been also been echoed in reports prepared by the CBA as well as the Law Society of B.C.<sup>8</sup> This data is

<sup>8</sup> See *Model Equity and Diversity Strategies for Recruitment of Students*, Equity Initiatives and Education Departments, Law Society of Upper Canada, Sept, 2001;

essential to assessing the impact of tuition fee increases and a student's ability to repay any loans or bursaries advanced by the Faculty of Law to enable a student to pay for their legal studies, particularly since Aboriginal lawyers and lawyers from subordinate racialized groups may not be able to attract employment that provides income sufficient to repay high student debts; and (2) the Law Society's member's annual report has not in the past gathered information disclosing individual lawyer's personal characteristics. This has only been done for gender and, as such, cannot give any information relevant to Aboriginal peoples, peoples with disabilities and individuals from subordinate racialized groups. However, data on this is available through a study commissioned by the Law Society of Upper Canada's Equity Initiatives Department and conducted by Professor Michael Ornstein of the Institute of Social Research at York University<sup>9</sup>. This report indicates significant earning differentials between White members of the legal profession and those from Aboriginal and subordinate racialized groups. There may be further research needed to explore these initial indications. For those who are interested, there is every opportunity to do so through a similar study of the recent Census data. This, however, is not addressed in the methodology described in the Provost memo.

**Conclusion:**

In conclusion, these are the concerns that the Standing Committee on Equality wishes to share with the University as it considers whether to rely on the data gathered through the Provost accessibility study and, in doing so, move to increase tuition fees for the Faculty of Law. We have raised these so that the University's Governing Council may have another perspective to consider along with other information gathered to address this critical matter. It has often been said that access to legal education opens up the doors to access to justice. It would be very sad, indeed, if these doors were closed on individuals from certain communities.



Amy Gough Farnworth  
Chair, Standing Committee on Equality

Encl.

cc. Paul Copeland, Chair, Equity and Aboriginal Issues Committee, Law Society of Upper Canada  
Governing Council, University of Toronto

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***Racial Equality in the Canadian Legal Profession.*** Canadian Bar Association, 2000;  
***Addressing Discriminatory Barriers Facing Aboriginal Law Students and Lawyers,***  
Law Society of British Columbia, April, 2000

• <sup>9</sup> ***Lawyers in Ontario: Evidence of the 1996 Census,*** January, 2001.

Resolution 02-01-A

Résolution 02-01-A

## Law School Tuition Fees

## Frais de scolarité applicables aux facultés de droit

**WHEREAS** part of the mandate of the Canadian Bar Association is to promote equality in the legal profession;

**ATTENDU QU'UNE** partie du mandat de L'Association du Barreau canadien consiste à promouvoir l'égalité au sein de la profession juridique;

**WHEREAS** *Touchstones for Change: Equality, Diversity and Accountability* (the Wilson Report) recognized that entry into law school was a significant barrier for disadvantaged groups, particularly those disadvantaged on the basis of gender, race, disabilities or sexual orientation;

**ATTENDU QUE** le rapport intitulé *Les assises de la réforme : égalité, diversité et responsabilité* (le Rapport Wilson) a reconnu que l'admission aux facultés de droit posait de grandes difficultés pour les groupes désavantagés, particulièrement les groupes désavantagés au motif de leur sexe, de leur race, de leurs handicaps ou de leur orientation sexuelle;

**WHEREAS** the Working Group on Racial Equality found that the cost of legal education has a disproportionate impact on students from disadvantaged socio-economic backgrounds, including students from racialized communities;

**ATTENDU QUE** le Groupe de travail sur l'égalité raciale a conclu que le coût de la formation juridique avait une incidence disproportionnée sur les étudiant(e)s issu(e)s de milieux défavorisés sur le plan socio-économique, y compris les étudiant(e)s issu(e)s de communautés racialisées;

**WHEREAS** continued federal and provincial cutbacks in funding post secondary education have created a financial crisis in the education system;

**ATTENDU QUE** les coupes continues imposées par les gouvernements fédéral et provinciaux au budget de l'enseignement postsecondaire ont déclenché une crise financière dans le système d'éducation;

**WHEREAS** law faculties have been burdened with the challenge of increased costs and decreased funding;

**ATTENDU QUE** les facultés de droit sont tiraillées entre la hausse des coûts de l'éducation et la diminution de leur budget;

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**WHEREAS** law school tuition fees have increased significantly in the last decade and will likely continue to increase;

**WHEREAS** financial assistance for students in the form of grants, bursaries and loans has not kept pace with increasing tuition fees;

**WHEREAS** high tuition fees discourage students from low or modest income families from considering legal education, thus decreasing diversity in the legal profession;

**WHEREAS** high student debt often constrains the career choices made by law students;

**WHEREAS** the Canadian Bar Association is committed to promoting the interests of student members;

**WHEREAS** the Canadian Bar Association, through the Young Lawyers Conference, is a member of National Professional Association Coalition on Tuition (NPACT);

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**ATTENDU QUE** les frais de scolarité des facultés de droit ont augmenté, de façon importante, au cours de la dernière décennie et continueront vraisemblablement d'augmenter;

**ATTENDU QUE** l'aide financière accordée aux étudiant(e)s sous forme de subventions, de bourses et de prêts n'a pas suivi le rythme de la hausse imposée aux frais de scolarité;

**ATTENDU QUE** des frais de scolarité élevés dissuadent les étudiant(e)s issu(e)s de familles aux faibles ou modestes revenus d'envisager la poursuite d'études en droit, ce qui diminue la diversité au sein de la profession juridique;

**ATTENDU QUE** la perspective d'accumuler des dettes importantes contraint souvent les étudiant(e)s en droit à faire certains choix de carrière;

**ATTENDU QUE** L'Association du Barreau canadien s'est engagée à promouvoir les intérêts de ses membres étudiants;

**ATTENDU QUE** L'Association du Barreau canadien, par le truchement de la Conférence des jeunes avocat(e)s et notaires, est membre de la Coalition des associations professionnelles nationales sur les frais de scolarité (CAPNFS);

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**BE IT RESOLVED THAT** the Canadian Bar Association:

1. urge provincial and territorial Ministers responsible for post-secondary education to review deregulation of law school tuition fees;
2. urge the federal government and provincial and territorial Ministers responsible for post-secondary education to increase financial support for students in professional programs;
3. urge faculties of law and universities to adopt tuition policies that give high importance to access, and to take all measures necessary to ensure that qualified candidates are not excluded from law school because of financial hardship;
4. urge law societies in each province and territory to act against the negative impact of high tuition fees on the accessibility of legal education;
5. urge members of the legal profession to make financial contributions to law schools, with a view to alleviating the impact of higher tuition fees; and

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**QU'IL SOIT RÉSOLU QUE** L'Association du Barreau canadien :

1. exhorte les ministres responsables de l'enseignement post-secondaire dans les provinces et territoires à évaluer la déréglementation des frais de scolarité applicables aux facultés de droit;
2. exhorte les ministres responsables de l'enseignement post-secondaire au gouvernement fédéral et dans les provinces et territoires à augmenter l'aide financière accordée aux étudiant(e)s dans les programmes de formation professionnelle;
3. exhorte les facultés de droit et les universités à adopter des politiques relatives aux frais de scolarité qui privilégient l'accès et à prendre les mesures nécessaires pour que les candidat(e)s qualifié(e)s ne soient pas exclu(e)s des facultés de droit en raison de leurs difficultés financières;
4. exhorte les barreaux dans chaque province et territoire à prendre des mesures pour freiner l'incidence néfaste des frais de scolarité élevés sur l'accessibilité de la formation juridique;
5. exhorte les membres de la profession juridique à verser des contributions financières aux facultés de droit, dans le but d'atténuer l'incidence négative des frais de scolarité plus élevés; et

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6. affirm its commitment to the objectives of NPACT, namely:
- to ensure regulated and reasonable tuition fees;
  - to realize an increase in federal government funding of post-secondary institutions to alleviate some of the pressures driving tuition fee increases; and
  - to achieve financial support systems for students that are: non-coercive (i.e. not forcing recent graduates to practice in a specific geographic location); developed in conjunction with any tuition increase; in direct proportion to the tuition fee increase; and at levels that meet students' needs.

Certified true copy of a resolution carried as amended by the Council of the Canadian Bar Association at the Annual Meeting held in London ON, August 10-11, 2002.

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6. affirme son engagement envers la réalisation des objectifs de la CAPNFS, notamment :
- veiller à ce que les frais de scolarité soient à la fois réglementés et raisonnables;
  - obtenir du gouvernement fédéral qu'il augmente le financement accordé aux établissements d'enseignement postsecondaire afin d'alléger les pressions à la hausse des frais de scolarité; et
  - mettre en place des systèmes d'aide financière pour les étudiant(e)s qui ne soient pas coercitifs (c'est-à-dire qui n'obligent pas les diplômé(e)s récent(e)s à exercer dans des régions spécifiques), qui seraient adaptés simultanément à toute hausse des frais de scolarité, directement proportionnels à cette hausse, et à des niveaux correspondant aux besoins des étudiant(e)s.

Copie certifiée conforme d'une résolution adoptée tel que modifiée par le Conseil de l'Association du Barreau canadien, lors de l'Assemblée annuelle, à London ON du 10 au 11 août 2002.



**John D.V. Hoyles**  
Executive Director/Directeur exécutif