



NOVA SCOTIA BARRISTERS' SOCIETY

## **POLICY RELATING TO EDUCATION PLANS PURSUANT TO REGULATION 5.6.5 (CHANGE CATEGORY)**

Pursuant to Regulation 5.6.3 the Executive Director may, where it is in the public interest to do so, approve an application to change membership from a non-practising member to a practising lawyer category, with terms. The Executive Director will consider all options available, when considering each Application to Change Category.

One of the Executive Director's options under Regulation 5.6.5(a) is to require that an applicant complete a period of service with a practising lawyer, in accordance with an Education Plan approved by the Executive Director. The Executive Director will select this option as a component of the ruling, should the Executive Director determine, based on a review of the application, that the applicant will need a period of supervision in order to become competent.

The purpose of this document is to set out the criteria that will be used by the Executive Director when evaluating such Education Plans.

### **1. GUIDING PRINCIPLES**

The development of a policy and framework pursuant to Regulation 5.6.5(a) recognizes that in most cases, an Education Plan for the purposes of a change category applicant, who has already articulated and been admitted to the Bar, will be different from an Education Plan developed to teach an Articled Clerk lawyering skills to the level of a newly called lawyer.

Thus, this policy and framework reflect the need for flexibility so that the Education Plan meets the circumstances of each applicant and reflects the level of supervision applicable to those circumstances. In order to be approved, however, all Education Plans pursuant to this Regulation must incorporate the following criteria.

### **2. EVALUATING EDUCATION PLANS**

The Education Plan must:

1. Appropriately address the requirements for reinstatement to a practising lawyer category, as set out in the Executive Director's written ruling.
2. Be in effect for the full period of service as set out in the Executive Director's written ruling.
3. Be tailored to the applicant's situation, for example:
  - will the applicant be working in a firm and engaged in several practice areas?
  - will the applicant be employed on contract for a special initiative?
  - will the applicant be acting as a consultant?
  - will the applicant be employed in a corporate counsel role?
4. Clearly define the role of the supervising lawyer in the circumstances. This shall include confirmation that the supervising lawyer will report to the Executive Director as to the applicant's progress.
5. Clearly set out a process for monitoring the education of the applicant so that the requirements of the Executive Director's ruling are met. This shall include a description of the process by which the supervising lawyer will report to the Executive Director as to the applicant's progress.

6. Recognize that the supervising lawyer must otherwise qualify to be a Principal.

### 3. EDUCATION PLAN FRAMEWORK

In considering the criteria identified above, the Executive Director will take into account that the goal of the Education Plan is to confirm the competence of the applicant. As such, there will be special considerations applicable to each case. The following models will guide the Executive Director in considering these Plans.

(i) *Applicants with little or no practice experience*

A comprehensive Education Plan, similar to the model Education Plan developed for Articled Clerks, may be appropriate for an applicant who:

- has been non-practising for many years; and
- has not participated in professional development activities during the time the applicant was non-practising.

In this situation, in addition to a comprehensive Education Plan, close supervision and monitoring of the applicant would be built into the Plan, together with a reporting structure as to the applicant's progress.

(ii) *Applicants with practice experience or relevant work experience*

For an applicant who will be returning to practice in an area with which the applicant is very familiar or where the applicant will act as a consultant, the Education Plan may:

- provide a description of the work/initiative or project to be undertaken by the applicant during the period of supervision;
- provide for the oversight and support of the supervising lawyer, as appropriate in the circumstances;
- provide for a reporting structure as to the applicant's progress.

(iii) *Other situations*

There may be other circumstances to consider, when developing an Education Plan pursuant to this policy, such as a non-practising member in Nova Scotia who has been practising in another country and who wishes to return to Nova Scotia. In these circumstances, a hybrid of the above two models may be appropriate.

In all situations, however, the criteria for evaluating Education Plans set out above must be addressed.

*Approved by the Credentials Committee – December 14, 2007*

*Revised by the Credentials Committee – December 10, 2009*