



NOVA SCOTIA  
BARRISTERS' SOCIETY

# Manual for Principals

May 2017

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# Introduction

## What is a Principal?

A Principal is a lawyer, law firm or office of a law firm that has more than one office in the province who agrees to train and supervise an articled clerk in:

- practice skills,
- personal practice and office management skills, and
- ethics and professional responsibility skills.

## What is the difference between a Principal and Supervising Lawyer?

The term “Principal” is used to describe a traditional articling arrangement where an individual lawyer supervises a single articled clerk, while the term “Supervising Lawyer” is used when the firm or organization is acting as Principal. In the latter case, a Supervising Lawyer will oversee the training of one or more clerks in conjunction with other participating lawyers in the firm or organization.

At the time of application, you must decide whether you intend to act as a Principal personally or whether your firm or organization will act as Principal. If the firm or organization acts as Principal, a single Supervising Lawyer must be appointed for all the clerks at the same time.

It is not possible to have both individual Principals and Supervising Lawyers in the same firm or organization.

## Can I act as a Principal/Supervising Lawyer?

To act as a Principal/Supervising Lawyer, you must:

- a. have carried on the practice of law in Nova Scotia for at least five years immediately preceding your application to become Principal;
- b. not be prohibited from being a Principal;
- c. not have been convicted of any charges pursuant to Part III within three years from the date of the application to be a Principal;
- d. not have any outstanding charges pursuant to Part III of the Act;
- e. not be charged with or plead guilty to or be found guilty of any offence under the
  - i. *Criminal Code* (Canada)
  - ii. *Controlled Drug and Substances Act* (Canada)
  - iii. *Income Tax Act* (Canada)
  - iv. *Securities Act* of any province of Canada;

Within three years from the date of the application to be a Principal.

- f. not be participating in the Fitness to Practise program;
- g. not have been suspended; and
- h. not have any practice restrictions.

For a detailed list of eligibility requirements, see [Regulation 3.5.2](#).

In some instances, a Principal/Supervising Lawyer may not be required to meet the eligibility requirements. For further information, see: [Policy on waiver of five-year eligibility requirement to be Principal](#).

You should also consider the time you and others in your firm will be able to commit to an articled clerk. The articling term is a year of learning in which the articled clerk will need regular supervision, instruction and feedback. This requires a significant time commitment.

## Why should I agree to act as a Principal/Supervising Lawyer?

The success of articling as an experiential training program depends on the willingness of individuals to act as Principals/Supervising Lawyers. It is an opportunity to take an active role in providing an articulated clerk with knowledge and ethical guidance. It is also an opportunity to share your experiences and to help an articulated clerk learn through their experiences during the articling term.

## How do I hire an articulated clerk?

Each year, there are many upcoming law school graduates looking for articling positions. Many larger firms plan well in advance when hiring articulated clerks and may have started recruiting law students in their second year. However, not all firms are able to plan this far in advance. If you are interested in hiring an articulated clerk, you can participate in recruiting at law schools or advertise and hold interviews yourself. As far as advertising your position, you can do so in many ways including at the law schools or by [posting an ad](#) on the [Career opportunities page](#) of the Society's website, which will also be shared in our [InForum](#) publication.

***Please note:*** When considering prospective candidates, an individual cannot be approved as an articulated clerk unless they are lawfully entitled to work in Canada. Additionally, applicants with foreign law degrees must have completed the NCA (National Committee on Accreditation) process.

## How many articulated clerks can I have?

An individual Principal may only have one articulated clerk. If a firm or organization acts as the Principal, it may have as many articulated clerks as the firm has lawyers qualified to act as a Principal. For example if the firm has five lawyers who meet the eligibility requirements to be a Principal as listed above, then the firm may be permitted to have up to five articulated clerks. These articulated clerks would all be monitored by the firm's Supervising Lawyer.

# Becoming a Principal/Supervising Lawyer

## What do I need to submit?

You will need to submit the following documents:

1. [Application to Act as Principal](#) (either as an Individual or a Firm);
2. [Education Plan](#);
3. [Articling Plan](#); and
4. [Articling Agreement](#).

### 1. Application to Act as Principal

A firm or an individual lawyer may act as a Principal. The traditional articling arrangement had the articled clerk supervised by an individual lawyer as Principal. In the case where a [firm acts as the Principal](#), an individual lawyer is named as the **Supervising Lawyer**. **There are different forms to be completed for an [individual lawyer to act as Principal](#) versus a [firm acting as Principal](#).**

### 2. Education Plan

You will prepare an [Education Plan](#) outlining your clerk's articling program. The Education Plan details how the clerk will develop the core skills and competencies identified by the Society that will prepare them to be competent at the level of a newly called lawyer. In addition to outlining how the clerk will be taught these skills, the Education Plan sets out how you will supervise and provide the clerk with feedback. Each Plan must be approved by the Society on a yearly basis.

For more details about preparing your Education Plan, see [Preparing an Education Plan](#).

### 3. Articling Plan

For each articled clerk, a lawyer (or the firm who is acting as Principal) must attach an [Articling Plan](#) to either their previously approved Education Plan or their new Education Plan. The Articling Plan either confirms the commitments made in the approved Education Plan or identifies changes for approval. If changes are noted in the Articling Plan then an updated Education Plan showing the changes should also be submitted – it is not sufficient to only note the changes on the Articling Plan.

The Articling Plan must be signed by both the Principal/Supervising Lawyer and the articled clerk prior to submission.

### 4. Articling Agreement

The purpose of the [Articling Agreement](#) is to identify the articled clerk and Principal, confirm the articling term, and clarify the responsibilities of each party over the articling term. It also sets the specific obligations owed to the Principal and the articled clerk by the other. The Agreement does not deal with other terms of employment such as pay, vacation or sick leave. Those terms should be dealt with directly between the Principal and articled clerk.

## Ruling Letter

Once your Application to Act as Principal and supporting documents have been received and approved, you will receive a ruling letter by email confirming you are permitted to act as a Principal. This letter will also approve your Education Plan and Articling Plan.

For further information, please see the following policies:

- [Policy on Principal's Applications](#)
- [Policy on waiver of five-year eligibility requirement to be Principal](#)
- [Policy regarding Principals charged/convicted under Part III of the Act, principals charged with criminal or other offences or principals involved in fitness to practise regime](#)
- [Policy relating to education and articling plans](#)

# Preparing an Education Plan

The Society provides a number of model Education Plans covering different articling arrangements on our [website](#). In addition, Officers, Education & Credentials, are available to discuss your Plan with you or answer any questions you may have. They can be reached by using the email addresses below:

Caron Ferguson Eagan [cferguson@nsbs.org](mailto:cferguson@nsbs.org) or Erica Green [egreen@nsbs.org](mailto:egreen@nsbs.org).

## What is an Education Plan?

An Education Plan outlines an articulated clerk's articling program. It details how the clerk will develop the core skills and competencies identified by the Society that will prepare them to be competent at the level of a newly called lawyer. In addition to outlining how the clerk will be taught these skills, the Education Plan sets out how you will supervise and provide the clerk with feedback. Your plan must be reviewed with your articulated clerk and approved by the Society on a yearly basis. For further information, see [Policy relating to education and articling plans](#).

## What are the core skills and competencies an articulated clerk requires?

The core skills and competencies an articulated clerk requires are set out in the [Competency Framework](#). The Competency Framework identifies the performance criteria for each of the skills, behaviours and attitudes an articulated clerk is expected to develop during their articling term. The performance criteria were set based on the competencies needed to be demonstrated by a newly called lawyer. The framework has three sections: Practice Skills, Personal Practice and Office Management, and Ethics and Professional Responsibility. ***These performance criteria should be used throughout the articling term to evaluate the articulated clerk in each of the competencies.***

## How do I complete my Education Plan?

Prior to completing your Education Plan, you should review the [Competency Framework](#). This will assist you in developing the contents of your plan. You should then refer to the Model Education Plans on the Society's [website](#) as template or starting point in preparing your plan.

The Education Plan must consist of the following sections:

1. [General information](#);
2. [Practice areas and supervision](#);
3. [Competency Framework](#);
4. [Section A - Practice Skills](#);
  - i. Interviewing and advising,
  - ii. Analysis of problems,
  - iii. Fact investigation,
  - iv. Legal research,
  - v. Planning and conducting a matter,
  - vi. Drafting,
  - vii. Writing,
  - viii. Negotiation,
  - ix. Advocacy, and
  - x. Feedback
5. [Section B - Personal Practice and Office Management Skills](#);
6. [Section C - Ethics and Professional Responsibility Skills](#);
7. [Professional development](#);
8. [Guidance and advice](#);
9. [Routine tasks](#);
10. [Secretarial support](#);
11. [Research aids](#);
12. [Evaluations](#); and
13. [Billable hours](#).

## 1. General information

The general information comprises items 1 through 4 of the Education Plan. The information required is:

1. Name of the Principal or Supervising Lawyer;
2. Name of the firm;
3. Business address of the firm; and
4. Number of practising lawyers in the firm.

## 2. Practice areas and supervision

Sections 5 (a) and (b) of the Education Plan set out the areas of law the articulated clerk will be exposed to. It also details any secondments an articulated clerk will be participating in.

A secondment means the articulated clerk is articling in the office of another practising lawyer outside the office of the Principal/Supervising Lawyer. The secondment lawyer must meet the requirements to act as a Principal and the [Articling Agreement](#). The work period with the secondment lawyer may not exceed one month without the Executive Director's approval. **In the event the timing of a secondment or the location or secondment lawyer should change, you must provide the Society with updated information. It is important that we are aware at all times where an articulated clerk is located so we can confirm they are being properly supervised or in the event we need to contact them.**

## 3. Competency Framework

Section 6 of the Education Plan confirms that you have reviewed the contents of the [Competency Framework](#). It further confirms you will ensure the articulated clerk is given an opportunity to learn all the skills set out in the Framework.

## 4. Section A - Practice Skills

Section A on Practice Skills sets out how the articulated clerk will receive practical experience and training in a number of skills. It also covers how feedback will be provided to the articulated clerk to assist them in improving on their development of these skills, so as to reach the level of competency of a newly called lawyer at the end of their articling term. The subsections of this portion of the Education Plan are:

- i. Interviewing and advising,
- ii. Analysis of problems,
- iii. Fact investigation,
- iv. Legal research,
- v. Planning and conducting a matter,
- vi. Drafting,
- vii. Writing,
- viii. Negotiation, and
- ix. Advocacy.

When discussing how the articulated clerk will acquire training in each of the skills, you will need to:

1. set out what types of activities they will be doing;  
(*e.g., interviewing clients, writing letters, observing negotiations*)
2. explain how the training will progress; and  
(*e.g. observing the skill, opportunities to practise, performing the skill while supervised, performing the skill on their own*)
3. set out who will be providing the training.  
(*e.g., Principal, other lawyer in the firm, secondment lawyer*)

The model Education Plans on the Society's [website](#) include questions under each of the skills to assist you in setting out how each skill will be learned.



The final portion of the Practice Skills is the section of feedback. In preparing this section, you will need to consider how feedback will be given for the various skills and how it will differ between written skills and in-person skills. To assist in your completion of this portion of the Education Plan, please see the section in this manual on [feedback](#).

#### **5. Section B - Personal Practice and Office Management Skills**

Section B of the Education Plan covers personal practice and office management skills. It will be necessary in this section to consider how the articulated clerk will be taught and given feedback on skills related to the running of a law practice, including but not limited to:

- time management,
- file management,
- client relations,
- accounting, and
- communications.

#### **6. Section C - Ethics and Professional Responsibility Skills**

Section C of the Education Plan addresses ethics and professional responsibility skills. In this section of the Education Plan, Principals/Supervising Lawyers must ensure the articulated clerk receives training and experience in:

- their duties to various individuals and organizations,
- their requirement to maintain a high ethical standard,
- indentifying possible ethics issues, and
- their obligation to maintain and enhance the reputation of the legal profession.

If your practice does not include billing or trust accounting, please consider how your clerk will be introduced to these areas during the articling term, as this is a mandatory component of this skill set.

It is important to note that the clerk is expected to obtain experience in these skills at a level appropriate to an articulated clerk. As an example, the articulated clerk is expected to receive experience in “developing a client base”. While it is unlikely that most articulated clerks would actually develop a client base for the firm, the clerk will perform work for various lawyers within the firm. For the purposes of this competency, the clerk could consider the lawyers as “clients” – the skill development would be the same.

#### **7. Professional development**

The law is ever changing and the legal profession is one that requires a culture of continual learning. To support the creation of this culture for articulated clerks, Section 7 of the Education Plan sets out the professional development your articulated clerk will participate in during their articling term. This should include who will pay for the professional development if a cost is incurred.

#### **8. Guidance and advice**

Throughout your legal career, it is helpful to have someone you can turn to for guidance and advice. This is particularly important when you are just starting out. Section 8 of the Education Plan sets out your obligation to arrange a mentor for your articulated clerk. The mentor can be a lawyer inside or outside your firm with whom the articulated clerk can discuss, in confidence, any problems or areas of concern relating to their articling experience. The mentor should not be the Principal/Supervising Lawyer.

#### **9. Routine tasks**

The articling term is the time for articulated clerks to gain practical knowledge and skills through experiential learning. It is recognized, however, that articulated clerks may perform some routine tasks (e.g., filing documents at court, photocopying, deliveries). These tasks are not seen as having a significant educational component and therefore the Society mandates articulated clerks only perform these tasks occasionally. Section 9 of the Education Plan asks that you confirm by checking yes or no that your articulated clerk will not perform these tasks more than 10% of the time. In the event you check yes, you will be contacted to discuss why the clerk will be performing these tasks in excess of 10% of the time.

### **10. Secretarial support**

Articled clerks are not required to have secretarial support. However, it is helpful for the Society to know what resources are available to them so we can better understand what their articling experience will look like. Section 10 of the Education Plan asks you to advise whether or not the articled clerk will have secretarial support by checking yes or no.

### **11. Research aids**

It is helpful for the Society to know what resources are available to your articled clerk so we can better understand what their articling experience will look like. Section 11 of the Education Plan asks how much time the articled clerk will spend conducting legal research. This should not exceed 40%, as the articled clerk needs sufficient time to develop other legal skills. It will also ask whether there is a librarian at the firm, what paper and electronic format research aids are available, and what research aids are available in the community.

### **12. Evaluations**

Receiving feedback throughout the articling term is important to an articled clerk's development toward the level of a newly called lawyer. In addition to the feedback the articled clerk will receive as they perform the various practice skills, you should also consider how frequently they will receive a more formal performance evaluation. Section 12 of the Education Plan asks you to check a box indicating the frequency of the performance evaluations. It also sets out your undertaking to submit reports to the Society as required.

### **13. Billable hours**

Requiring your articled clerk to record their billable hours for the purposes of learning to track time is a good way to assist them in learning about practice management. Section 13 of the Education Plan asks whether you have an expectation of billable hours during the articling term and, if so, you must note how many hours and what the primary purpose is of this requirement. The primary purpose should not be to track the generation of revenue but rather for education purposes related to learning time and practice management.

## Duties of a Principal/Supervising Lawyer

As a Principal/Supervising Lawyer, you have undertaken to provide your articled clerk with a reasonable opportunity for instruction and training in the general practice of a lawyer. During the articling term you have an obligation to provide your articled clerk with the time, patience and supervision they require to progress through their articling term and obtain the competency of a newly called lawyer.

### Specific duties

The specific duties of a Principal/Supervising Lawyer are to:

1. expose the articled clerk to the necessary competencies to become competent as a newly trained lawyer;
2. provide the articled clerk with adequate supervision (note: this includes ensuring supervision by a lawyer(s) who would qualify as a Principal/Supervising Lawyer during times you are absent from the office, such as vacations or medical leave);
3. ensure the articled clerk has the necessary skills for admission;
4. comply with the Education Plan and Articling Plan;
5. advise and counsel the articled clerk on their professional responsibilities;
6. ensure the articled clerk becomes familiar with proper law office management procedures; and
7. provide a midterm and final report to the Society with respect to the articled clerk's progress.

If you are satisfied at the end of the term that the articled clerk has the knowledge, skills and attributes expected of a newly called lawyer as set out in the [Competency Framework](#) and is a person of good character, you will also complete the following:

1. a [Certificate of Principal/Supervising Lawyer](#); and
2. a [Statement of Good Character](#).

For more information on a Principal/Supervising Lawyer's responsibilities, see the [Articling and Admission Guidelines](#).

### Reports

Twice during the year, you will submit a report on your articled clerk's progress to the Society. The first report will be forwarded to you by email midway through the articling term, while the second report will be sent six weeks before the end of the articles. In these reports you will provide feedback with respect to the development of your articled clerk's skills set out in the Education Plan and their level of competency. In most instances, you will meet with your articled clerk to review the contents of the report prior to submitting it to the Society. ***These reports are your assessment of your articled clerk, and should be completed and submitted by you and not your articled clerk.***

### Certificate of Principal and Statement of Good Standing

In addition to submitting the final report near the end of the articling term, you will also receive in the email enclosing the final report a link to the [Certificate of Principal/Supervising Lawyer](#) and a [Statement of Good Character](#). The Certificate of Principal/Supervising Lawyer certifies that your articled clerk is ready to be called to the Bar and is competent to the level of a newly called lawyer. You will also sign a Statement of Good Character confirming your articled clerk is of good character. A person of good character is one who demonstrates qualities of honesty, fairness, candour, trustworthiness, observance of fiduciary responsibility, respect for and obedience to the laws of Canada and Nova Scotia, respect for and compliance with the legal ethics standards governing lawyers, and respect for the rights of all involved in legal and court processes.

These two documents along with the final report, combined with your articled clerk's performance on the Bar Examination and in the Skills Course, will be used by the Society to determine if your articled clerk is ready to be called to the Bar.

## **A word about insurance**

Articled clerks are not covered individually under the Liability Insurance policy. They are covered by the Principal/Supervising Lawyer's insurance as it is the Principal/Supervising Lawyer's responsibility to supervise their articled clerks. Further, as the Principal/Supervising Lawyer is the general supervisor of the articled clerk's entire articling term, they may also be held responsible for the time an articled clerk is seconded outside of your firm.

# Articled Clerk's Application

Once you have completed your hiring process, it will be necessary for your successful candidate to apply to become an articled clerk. Full details for completing the [articling application](#) and additional information for articled clerks can be found in the [Articling Handbook](#). This manual is intended to set out information about the application that is relevant to Principals/Supervising Lawyers.

## What is included in the Articling Application?

The Articling Application consists of the following components:

1. Applicant's Questionnaire: Parts 1 and 2
  - a. Skill Course/Bar Exam selection
  - b. Skills Course Program Agreement
  - c. Equity & Diversity Form;
2. Particulars for any affirmative responses in the Applicant's Questionnaire;
3. Two reference letters;
4. Articling Plan (completed in conjunction with the Principal);
5. Articling Agreement (completed in conjunction with the Principal);
6. Education Plan (completed in conjunction with the Principal);
7. Criminal Record Check;
8. Notarized copy of government-issued photo ID;
9. Official transcript or NCA Certificate of Qualification;
10. Letter from law school confirming the clerk has met the requirements to graduate, if a transcript will not be received by the Society prior to the articling start date; and
11. [Application fee](#).

It may also include the following, if required:

1. Proof of English language proficiency;
2. Particulars of work permit or other authorization allowing the clerk to work in Canada, if applicable;
3. Accommodation for the Bar Examination; and
4. Other information requested by the Executive Director.

## What portions of the Articling Application do I need to sign?

There are two areas in the Articling Application that must be signed by the Principal/Supervising Lawyer:

1. Declaration of Principal/Supervising Lawyer (page 6); and
2. Skills Course Declaration (page 8).

## Can I participate in the Skills Course selection?

Yes, you may set the order of preference for the in-person Skills Course sessions (see page 7 of the Articling Application). While we attempt to place articled clerks in their preferred session, in order to balance the course this is not always possible. If there is a special circumstance that you believe could entitle you to priority in selecting a session, please indicate it with an explanation on the application form (e.g., religious holidays, secondment placement, more than one clerk). The balance of the modules for the Skills Course are held online at the same time for all clerks.

## What portions of the Articling Application must be sent directly to the Society?

These portions of the Articling Application must be sent directly to the Society:

1. The two reference letters,
2. The Applicant's Questionnaire Part II, and
3. The official transcript.

If you wish to forward the Applicant's Questionnaire Part II with the balance of the application, please ensure it is placed in a separate envelope. This portion of the application is to be submitted confidentially by the applicant.

### **What if the Articling Application is incomplete?**

If the Articling Application is incomplete, the applicant will be contacted and advised of the deficiencies. We will not contact the Principal/Supervising Lawyer about missing items from the Articling Application, other than in relation to items they are to provide or sign.

### **When will I know my articulated clerk has been approved by the Society?**

Articled clerks are provided with a ruling letter, by email, once their application is approved. This letter will outline a variety of important dates, their personal login credentials for the Society's website and information regarding course placements for the articling year. A copy of this letter will also be forwarded to you.

Ruling letters for articulated clerks looking to commence their articling term on June 1 are normally sent out during the last few days of May. Ruling letters for other requested start dates are usually sent within two weeks of receiving a completed articling application, but this timeframe may be longer depending on the time of submission and the volume of applications being processed.

During the processing of applications, applicants are contacted to advise that:

- their application has been received;
- their application is incomplete and what items are missing; and
- items missing from their application have been received.

### **What are shared articles?**

While the traditional articling arrangement involves a clerk working with a Principal in a single firm, another option open to articulated clerks is a shared articling arrangement.

In shared articles, the articulated clerk would work with a number of lawyers over the course of the articling year. At least one of the lawyers will act as Principal, and the other lawyers may act as Principals or secondment lawyers, depending upon the arrangements. Unlike traditional secondments, these placements are often for periods in excess of one month and may be of different lengths. All placements must be confirmed prior to the commencement of articles, and the details must be included in the **Education Plan**.

As the arrangements vary for this type of articling experience, it is important to contact an Officer, Education & Credentials to determine the appropriate structuring based on your proposed arrangements. They can be reached at the following email addresses: Caron Ferguson Eagan [cferguson@nsbs.org](mailto:cferguson@nsbs.org) or Erica Green [egreen@nsbs.org](mailto:egreen@nsbs.org)

# How to give feedback

Providing feedback is the cornerstone in experiential learning activities such as articling. Without feedback, an articled clerk cannot easily determine what has been done well and what requires improvement. They will also not know what steps or changes need to be taken to actually improve a skill. Therefore, feedback serves two main purposes. The first is to provide a basic affirmation that a performance has been accomplished to a given standard. In simple terms, it answers “Did I do OK?” Secondly, it provides guidance for improving that performance in the future. That is, it answers “How can I improve?”

Giving feedback is not an easy task. It requires you as Principal/Supervising Lawyer to observe a skill and evaluate it at the same time. This skill is not innate. However, the ability to give good constructive feedback can be learned.

The following tips are designed to help you improve your skill at giving constructive feedback.

## 1. Give balanced feedback

There can be a tendency to focus on the negative aspects of a performance. The person receiving feedback needs to have comments given in context. Was the performance generally satisfactory?

Give feedback about both behaviour that seems to work well and behaviour that does not seem to work well. Balance positive and negative feedback, describing and reinforcing behaviour that requires no change, as well as behaviour that appears less effective.

## 2. Be specific in giving feedback

The comment that “you did well” gives comfort that an effort was generally satisfactory. However, it does not effectively answer the questions surrounding why the performance was done well. The answer to the “why” question is crucial for effective feedback.

To be told “you made a few mistakes” does not answer the “why” question. Give examples to assist in the clarification of your comments. To be told (of an interview performance) that one is “dominating” will probably not be as useful as to be told, “In the interview, you didn't appear to be listening carefully to what the client was saying. You told the client, ‘You must start legal action immediately.’ You seemed to be forcing the client to accept your advice.”

## 3. Focus on a few selected points

Feedback should be selective, particularly in live (as opposed to written) skills performances. Use guides, checklists and review questions to focus on the particular aspects of a performance that are most important. It is not realistic to expect the observer to give, or the articled clerk to absorb, more than a few comments on any performance. Focus on a few key points.

## 4. Avoid personal judgmental comments

Comment on behaviour or performance rather than on the person. It is important to refer to what a person does rather than what we think or imagine a person is.

Some forms of evaluative language may tend to elicit a defensive response. For example, don't say, “You seemed insecure in the interview.” Instead, say, “You qualified the advice you gave the client a great deal. For instance, you said ...”

Comment on what was said and done and how it was said and done, rather than why it was said and done. For instance, don't say, “You had trouble introducing me because you're so shy.” Instead, say, “You spoke in a very soft voice, etc.” The “why” moves from the observable to the

inferred and involves assumptions regarding motive or intent, which can elicit a defensive response.

## **5. Look to the articulated clerk for a response**

It is important that the articulated clerk be given an opportunity to respond to feedback. This serves a number of purposes. The articulated clerk can provide confirmation that a feedback comment was understood or seek clarification of a comment. In some instances, the articulated clerk may seek to justify a particular conduct; the person giving feedback should evaluate this response and offer further comment as necessary.

Giving feedback is a sharing of information, rather than the giving of advice. For example, don't always say, "What you've got to do is this." Instead, say, "I observed you doing such and such," and let the person deal with that observation as they wish. Encourage the person to comment on their own performance. Self-evaluation is another form of feedback.

[Appendix A](#) contains a number of other articles about feedback, which you may find helpful.



# The Bar Admission Course

## What is the Bar Admission Course?

As part of the articling year, all clerks must participate in the Bar Admission Course. The Bar Admission Course was established as the means for the Society to determine that those who successfully complete the Course possess the required level of competence for a new lawyer in the covered skills.

The Course consists of three components:

1. A three-week in-person Skills Course (sessions take place between September and December);
2. A three-part online Skills Course,
  - a. Legal Writing (from mid-January to mid-February);
  - b. Legal Drafting (from mid-February to late March);
  - c. Practice Management (most often from the beginning of August until mid-September)<sup>1</sup>; and
  - d. Client Management (most often from the beginning of August until mid-September)<sup>1</sup>; and
3. The two-day Bar Examination (sittings in January and July).

Attendance and completion of all components of the Bar Admission Course are mandatory. The complete [schedule for the Bar Admission Course](#) for the year can be found on our website.

## What are my obligations during the Bar Admission Course?

Information concerning the specific dates your articled clerk will be attending the Bar Admission Course will be provided to you in their ruling letter. Regulation 3.6.5(c) requires that articled clerks **not perform work for their Principal or a practising lawyer while attending the in-person portion** of the Course. We also ask that Principals/Supervising Lawyers keep in mind their articled clerks' obligations during the other portions of the Bar Admission Course when assigning them work.

## What will my articled clerk be learning at the Bar Admission Course?

The Bar Admission Course was established as a means to evaluate the skills of articled clerks and determine whether they meet the competency of a newly called lawyer. During the in-person portion of the Course, articled clerks are taught interviewing, negotiation and oral advocacy. Although there is some instruction, most of the time the clerks learn through hands-on exercises.

### Interviewing

The method of interviewing taught is client-centered interviewing. This model allows the articled clerk to begin by listening to the story from the client and then to ask questions to help them in their theory development. The articled clerks then give advice, including options, to help the client resolve their issue. This method focuses on rapport building with the client as well as laying out a clear plan of how the interview will progress. The clerks record their interviews on video and have an opportunity to meet with Society staff to obtain feedback prior to their evaluation.

### Negotiation

The negotiation method taught is principled negotiation based on the book *Getting to Yes: Negotiating Agreement Without Giving In*. This model focuses on maintaining the relationship between the parties and determining the parties' interests rather than their positions. The articled clerks carry out two negotiations prior to completing their evaluation. Each negotiation is debriefed as a group to ensure all relevant aspects have been identified and to allow the clerks to ask questions arising from the negotiation exercises. In addition, the articled clerks work on learning to be reflective about their performance by keeping a negotiation journal for each exercise as well as the evaluation.

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<sup>1</sup>Practice Management and Client Management may be offered at other times throughout the year based on the number of clerks who commence on a date other than June 1.

### **Oral Advocacy**

Oral advocacy focuses on chambers practice. The articulated clerks work on drafting affidavits and orders in class. They also work on their oral advocacy skills by making a number of presentations in front of the class or small groups. The evaluation for oral advocacy has the clerks prepare an affidavit, brief and order for a chambers application and then appear in mock chambers to argue their side. The mock chambers justices, experienced litigators, do their best to have this experience resemble an actual chambers appearance. They also provide the clerks with feedback.

### **Legal Writing**

The online portion of the Bar Admission Course consists of three parts: Legal Writing, Legal Drafting and Practice Management. Legal Writing focuses on plain language writing and opinion letters. The clerks get an opportunity to draft letters and receive feedback from experienced practitioners prior to writing an opinion letter for the competency evaluation.

### **Legal Drafting**

The focus on plain language continues in Legal Drafting. In this module, articulated clerks draft simple contracts and consider topics such as the inclusion of standard clauses, proper identification of the parties and how best to commit the client's requirements to writing. As in Legal Writing, the contracts are marked by experienced practitioners who provide the clerks with feedback prior to them drafting a contract for the competency evaluation.

### **Practice Management**

Practice Management is a self-directed learning module that covers relevant topics such as file management, project management, trust accountings, tickler systems and delegation. The articulated clerks receive a number of articles to read on various topics related to practice management over a one-month period. They are encouraged during this time to discuss the contents of the materials with others to assist with their understanding. At the end of the module, the articulated clerks then complete a competency evaluation. The evaluation consists of a combination of 50 multiple choice and short answer questions, which aim to have the articulated clerks apply the information they have learned through their readings to fact scenarios.

For the Practice Management module, it is necessary to have the evaluation invigilated. The invigilator can be any practising member of the Society or any individual approved by a practising member of the Society. Articled clerks are instructed to submit an administration form prior to completing the evaluation in order for their invigilator to be approved. After completing the evaluation, their invigilator must resubmit this form with the invigilator's report section completed. Particulars on how the form is to be completed can be found in the [Articling Handbook](#).

### **Client Management**

Client Management is a self-directed learning module that covers relevant topics such as communicating with clients, fees and retainers, client expectations and reporting. The articulated clerks receive a number of articles to read on various topics related to client management over a one-month period. They are encouraged during this time to discuss the contents of the materials with others to assist with their understanding. At the end of the module, the articulated clerks then complete a competency evaluation. The evaluation consists of a combination of 50 multiple choice and short answer questions, which aim to have the articulated clerks apply the information they have learned through their readings to fact scenarios.

For the Client Management module, it is necessary to have the evaluation invigilated. The invigilator can be any practising member of the Society or any individual approved by a practising member of the Society. Articled clerks are instructed to submit an administration form prior to completing the evaluation in order for their invigilator to be approved. After completing the evaluation, their invigilator must resubmit this form with the invigilator's report section completed. Particulars on how the form is to be completed can be found in the [Articling Handbook](#)

## Why might the Society contact me regarding my clerk during the Bar Admission Course?

As Principals/Supervising Lawyers are tasked with assessing the competence and character of their articulated clerks and reporting to the Society, we wish to assist you by providing information about your articulated clerks' efforts, attitude and behaviour during the Bar Admission Course. This will include advising you about the following:

1. Your articulated clerk's performance on the Bar Examination;
2. Your articulated clerk's performance on the Skills Course evaluations;
3. Failure of your articulated clerk to submit an assignment or evaluation on time;
4. Habitual lateness;
5. Appearing late for an evaluation without a reasonable excuse;
6. Failure to prepare for an in-class exercise (which diminishes the learning opportunity of their classmates);
7. Behaviour contrary to the duty to behave with courtesy and civility;
8. Actions or attitudes that obstruct the learning of others; and
9. Behaviours that demonstrate a lack of respect for other articulated clerks, Bar Admission Course instructors, staff or volunteers.

The intention of sharing this information is not to punish the articulated clerk but to permit the Society and Principal/Supervising Lawyer to work together to address these issues as they arise. Many of the issues listed above reflect on the articulated clerk's personal practice and office management skills and their ethics and professional responsibility skills. In addition to the skills specifically practised during the Skills Course, we will be evaluating these skills as they are an important component of being a competent lawyer. The feedback provided to you and the articulated clerks on these items will assist you and the Society in helping them to grow in these areas.

For additional information, please see the following policies that apply to the Society providing information to Principals/Supervising Lawyers:

- [Policy regarding information provided to Principals concerning articulated clerk's performance in the Skills Course](#)
- [Policy on Applicant Identification and Release of Grades](#)
- [Policy regarding Completion of Assignments and Evaluations in the Skills Course](#)

## Questions that may arise during the articling term or application process

Quite frequently, Principals/Supervising Lawyers have questions during the articling term. In this section, we have attempted to address some of the most common questions. If your question is not answered or you need to discuss it further, please contact Officers, Education & Credentials. They can be reached at the following email addresses:

Caron Ferguson Eagan [cferguson@nsbs.org](mailto:cferguson@nsbs.org) or Erica Green [egreen@nsbs.org](mailto:egreen@nsbs.org).

### **What happens if my articulated clerk answers ‘yes’ to any of the “good character” questions on the articling application?**

If your articulated clerk answers ‘yes’ to any of the “good character” questions on the articling application, they will need to attach all relevant information regarding the circumstances and outline the steps they took to resolve the situation. Education & Credentials staff will contact the articulated clerk if additional information is required. Not all affirmative responses are determined to raise issues of good character; however, if there is a concern, the application will be referred to the Credentials Committee, a committee of the Society delegated by the Executive Director to review issues of character and fitness for individuals wishing to articulate or be admitted to the Bar.

Failure to disclose necessary information can result in the refusal of the application or striking of the clerk from the Registry of Articled Clerks, which is kept by the Society. Therefore, when in doubt, it is best to disclose. Any contact with the law, any credit problems/bankruptcies, discharges from employment or academic suspensions/dishonesty must be fully disclosed.

### **May my articulated clerk obtain a part-time job while articling?**

Your articulated clerk is not permitted to engage in any other employment that may interfere with their completion of the Articling Agreement or the Bar Admission Course. However, not all part-time jobs will so interfere. For example, many articulated clerks continue to be employed as tutors, referees or coaches. The articulated clerk will need to acquire the permission of the Society to undertake any part-time work. In order for the Executive Director to grant permission, we will require confirmation from you that you are aware of the employment and it will not interfere with your clerk’s articling duties.

### **Are there any types of files/matters my articulated clerk is not permitted to do?**

There are no specific types of files or matters that an articulated clerk cannot complete. However, their ability to handle certain types of files/matters and the level of supervising they will require will change throughout the articling term. Early in the articling term, most clerks will require a high level of supervision and will likely spend most of their time observing other lawyers performing various skills. As the articling term progresses, the expectation is that the articulated clerk will move to performing skills under supervision and then complete them on their own.

With this in mind, the Principal/Supervising Lawyer should consider the following when assigning work to the articulated clerk:

1. the type of project you are seeking to assign;
2. the experience and comfort level of your articulated clerk;
3. the level of supervision the file/matter will require;
4. the articulated clerk’s current workload; and
5. whether the client will need to consent.

*Please note that articulated clerks cannot give an undertaking and must identify themselves as an articulated clerk in all interactions and correspondence.*

## Can my articulated clerk go to court on their own?

There is no limitation on what an articulated clerk can do at court, however, it is the obligation of the Principal/Supervising Lawyer to supervise and provide feedback based on their Education Plan. Until an articulated clerk has demonstrated competence to undertake a particular task, the Principal/Supervising Lawyer should not permit the clerk to do that task unsupervised. You are reminded that you are at all times responsible for the actions of your articulated clerk and, in particular, the following should be noted:

1. The Principal/Supervising Lawyer must be satisfied that the articulated clerk is adequately briefed, not only on the facts of the matter but also on the applicable law. Proper court etiquette must be ensured. The articulated clerk should advise the court **on all occasions** they are an articulated clerk, who they are articulated to, and that they are attending with the consent of both the Principal/Supervising Lawyer and the client.
2. Except in matters of a very routine nature, the client must both understand and agree that the articulated clerk may appear instead of the Principal/Supervising Lawyer in the matter.
3. Under no circumstances should an articulated clerk be requested to handle a difficult and complex matter alone. The interests of the client may be compromised and the administration of justice may be brought into disrepute. It is in the interest of all clients to ensure that they obtain the best counsel, and therefore the Principal/Supervising Lawyer's attention to these matters is important.

## What if I need to make changes to my Education Plan during the articling term?

Should you need to make changes to your Education Plan during the articling term, these changes should be brought to the attention of Officers, Education & Credentials. Most changes can be accomplished by an exchange of emails between the Officer and the Principal/Supervising Lawyer. The Officers, Education & Credentials can be reached at: Caron Ferguson Eagan [cferguson@nsbs.org](mailto:cferguson@nsbs.org) or Erica Green [egreen@nsbs.org](mailto:egreen@nsbs.org).

## What if I wish to send my articulated clerk on a secondment or change their secondment?

If the secondment is not part of the original Education Plan, you will need to contact the Officers, Education & Credentials to discuss the addition of the secondment. They can be reached at: Caron Ferguson Eagan [cferguson@nsbs.org](mailto:cferguson@nsbs.org) or Erica Green [egreen@nsbs.org](mailto:egreen@nsbs.org). Secondments of one month or less are normally approved without conditions. Longer secondments may require you to provide further information. At minimum, we will need to know:

1. who the secondment lawyer is (this person must also be able to meet the Principal requirements);
2. where the secondment will take place;
3. the proposed secondment dates;
4. the practice areas the articulated clerk will experience during the secondment; and
5. the purpose of the secondment.

If your Education Plan sets out a secondment and you wish to make any changes, you will need to contact an Officer, Education & Credentials and provide them with the information regarding the proposed change. This information will be reviewed and you will be advised whether or not the change is permitted.

It is important that the Society is aware of the location of the articulated clerk throughout the articling term. This permits the Society to ensure the articulated clerk is being properly supervised and to contact them, if necessary.

## What if I feel my articled clerk is not meeting the necessary competencies?

If you feel your articled clerk is not meeting the necessary competencies, you should contact an Officer, Education & Credentials to discuss the situation. They can be reached at the following email addresses: Caron Ferguson Eagan [cferguson@nsbs.org](mailto:cferguson@nsbs.org) or Erica Green [egreen@nsbs.org](mailto:egreen@nsbs.org). The sooner the situation is reviewed and a plan made, the better it will be for both yourself and your articled clerk.

## What if I no longer wish to continue with my articled clerk?

In exceptional circumstances where you encounter issues with your articled clerk, such as concerns about actions taken by them or a breakdown in your relationship, you may apply to the Executive Director to have your Articling Agreement terminated. You must provide all necessary information in order to allow the Executive Director to consider the application and make a ruling. The Executive Director may approve the application on such terms as deemed appropriate. This may include a requirement to assist the articled clerk in locating another articling position.

The articles are not considered terminated until approval from the Executive Director is received.

For further information, see the Society's [Policy on Termination of Articles](#).

## What if my articled clerk or I want to continue their articles with a different Principal?

If you or your articled clerk wish to continue the articles with a different Principal, you may assign the Articling Agreement to another Principal. The following conditions apply:

1. You must provide your written consent.
2. The other Principal must have applied to be a Principal and been accepted.
3. The prescribed [Assignment of Articles](#) form must be filed with the Society **before** the date you wish the assignment to take place.
4. The request must be **approved** by the Executive Director **before** the assignment takes place.
5. The [applicable fee](#) must be paid.

For further information, please see the Society's Policy on [Assignments of Articles](#).

## What if my articled clerk requires a leave of absence from articling?

If circumstances should arise in which you feel your articled clerk needs to have a leave of absence, they will need to obtain your written consent and get approval from the Executive Director. The articled clerk will remain a member of the Society during their absence but they will not be entitled to act as an articled clerk. As well, the time they are absent will not be counted towards their articling term.

For further information please see the Society's [Policy on Leaves of Absence](#).

## What if my articled clerk is not ready to be called to the Bar at the end of their articling term?

There may be reasons your clerk is not ready to be called to the Bar at the end of their articling term, for example: failing the Bar Examination, failing a component of the Skills Course, or an inability to reach the required level of competency in one or more of skill areas set out in the [Competency Framework](#). In such an instance, you may agree to an extension of articles. This request **must** be submitted on an [extension of articles](#) form and **approved** by the Society.

For further information, please see the Society's [Policy regarding Extensions of Articles](#).

## Call to the Bar

As the articling term comes to an end, you will be asked to confirm that your articled clerk can demonstrate the competencies of a newly called lawyer. Your confirmation, together with their successful completion of all components of the Bar Admission Course, will be used by the Society to determine if your articled clerk is ready to be called to the Bar.

### **What documents must I provide for my articled clerk to be called to the Bar?**

Approximately 45 days prior to the conclusion of the articling term, you will be forwarded the final report. This report will ask you to review the level of competency reached by the articled clerk at the end of the articling term. The report must be returned to the Society 30 days prior to the completion of the articling term.

In addition to the final report you will also receive, in the email enclosing your final report, a [Certificate of Principal/Supervising Lawyer](#) and a [Statement of Good Character](#). The Certificate of Principal/Supervising Lawyer certifies that your articled clerk is ready to be called to the Bar and is competent to the level of a newly called lawyer. You must also sign a Statement of Good Character confirming your articled clerk is of good character. These documents should be returned along with your final report.

### **What if there is time between the end of the articling term and the call to the Bar?**

If you wish, you can extend your articled clerk's articling term until they are called to the Bar. Depending on the timing of the call, this may be for a few weeks or a few months. You should consider whether you will be requesting an extension during the same time as you are completing your final report. To request an extension, you will need to submit the [Extension of Articles form](#) to the Society and have it approved.

*For more information about extensions of articles, please see the Society's [policy on extensions of articles](#).*

### **When are the calls to the Bar?**

The main Bar Admission Ceremony takes place in early June. There are also three other calls throughout the year, in January, April and October. For specific dates, please see the [Bar Admission Schedule](#).

### **Where does the call to the Bar take place?**

The largest call to the Bar in June takes place at the Canadian Museum of Immigration at Pier 21, located at 1055 Marginal Road, Halifax. The smaller calls in January, April and October take place at The Law Courts, 1815 Upper Water Street, Halifax.

## Appendix A – Additional Feedback Resources

- [Formative Assessment: 5 Research-Based Tips for Providing Students with Meaningful Feedback](#)  
Marianne Stenger, Edutopia
- [Give your students better writing feedback. A practical guide for instructors.](#)  
[www.betterwritingfeedback.com](http://www.betterwritingfeedback.com)
- [Improving Student Professionalism During Experiential Learning](#)  
Dana Hammer, *American Journal of Pharmaceutical Education*