



## NOVA SCOTIA BARRISTERS' SOCIETY

### **Policy regarding Principals charged/convicted under Part III of the Act, principals charged with criminal or other offence or principals involved in fitness to practice regime.**

#### **Preamble**

Among the eligibility criteria for Principals set out in Regulation 3.5.2 is the requirement that Principals not have any been convicted of charges pursuant to Part III of the *Legal Profession Act* within three years from the date of the Principal's application and not have any outstanding charges pursuant to Part III of the *Legal Profession Act*, outstanding criminal charges or be involved in a fitness to practice regime. Regulation 3.5.19 speaks to what happens if a Principal is charged with offences under Part III of the Act during the course of the articling year.

#### **Regulations 3.5.19 and 3.5.20**

##### **1.1 Continuation or Withdrawal as Principal**

**1.1.1** Regulation 3.5.19 sets out how the Executive Director will address issues that may arise with a Principal during the articling year:

##### **Withdrawal of Principal**

###### **3.5.19** If

- (a) a principal has been suspended for any reason;
- (b) a principal has been charged pursuant to Part III of the Act;
- (c) a principal has any practice restrictions imposed by order of the Complaints Investigation Committee or otherwise under the Act or Regulations;
- (d) a principal no longer demonstrates a commitment and ability to provide articulated clerks with an articling experience in which the educational component is of paramount importance;
- (e) a principal no longer demonstrates a commitment and ability to provide supervision and feedback to articulated clerks

the Executive Director shall withdraw the privilege of being a principal, except if the Executive Director has reason to believe that subregulation 3.5.19(d) or 3.5.19(e) apply, and shall take appropriate action with respect to the articulated clerk.

##### **Referral to Committee**

**3.5.20** In the event that the Executive Director has reason to believe that subregulation 3.5.19(d) or 3.5.19(e) apply to a principal, the Executive Director shall forward the matter to the Committee for consideration.

##### **Executive Director to exercise Discretion**

**1.1.2** The Executive Director will exercise discretion on a case-by-case basis when deciding whether to:

- (a) remove an Articled Clerk from a Principal who has been charged with an offence under Part III, a criminal offence or is taking part in the fitness to practice program,
- (b) allow the Articled Clerk to remain with the Principal for the remainder of the articling term or for a shorter time, including until alternative arrangements may be made for the Articled Clerk, or
- (c) place conditions on the Principal.

**Exercise of Discretion guided by Public Interest**

**1.1.3** When exercising this discretion, the Executive Director will be guided by the public interest, and will take into account considerations such as, but not limited to, the following:

- (a) the impact on the Articled Clerk of an interruption in the articling term, including potential delayed call to the bar,
- (b) the environment in which the Articled Clerk is or will be articling,
- (c) other supports in place for the Articled Clerk,
- (d) the seriousness of the charge,
- (e) the Principal's willingness and ability to protect the Articled Clerk from the Principal's situation,
- (f) the availability of an alternative placement for the Articled Clerk, and
- (g) the Principal's co-operation with the Society.

*Approved by the Credentials Committee – May 26, 2016*  
*Revised by the Credentials Committee – March 26, 2020*