



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 3.5.7 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 3.5.17 and 3.5.18

1.1 Continuation or Withdrawal as Principal

1.1.1 Regulation 3.5.17 sets out how the Executive Director will address issues that may arise with a Principal during the articling year:

Withdrawal of Principal

3.5.17 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 3.5.17(d) or 3.5.17(e) apply, and shall take appropriate action with respect to the articulated clerk.

Referral to Committee

3.5.18 In the event that the Executive Director has reason to believe that subregulation 3.5.17(d) or 3.5.17(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