



NOVA SCOTIA BARRISTERS' SOCIETY

ARTICLING AND ADMISSION GUIDELINES

INTRODUCTION

The purpose of this guide is to assist both Principals and Articled Clerks in fulfilling their responsibilities and obligations to each other and to the Nova Scotia Barristers' Society during the articling term. As this document is meant to be a guideline, it is not exhaustive and does not cover every situation which a Principal and an Articled Clerk will encounter.

The Society recognizes the importance of the articling component of the Admission Process in assisting Articled Clerks with the development of the necessary competencies to begin the practice of law. Therefore, the Admission Process is primarily an educational experience which will result in the Articled Clerk acquiring and demonstrating adequate knowledge of substantive law, professional responsibility and ethics, practice and law office management as well as demonstrating good character. The Admissions Process is also designed to foster a commitment to lifelong learning.

The relationship between a Principal and Articled Clerk is both a professional one, and one of educator and student. Articled Clerks are to focus their attention on learning, and gaining practical experience, rather than on "billable hours" or becoming an income-earner for a practitioner or firm. Employers should refer to applicable law, such as the Minimum Wage Order, and the *Code of Professional Conduct*, to establish appropriate remuneration arrangements with Articled Clerks.

This guide is to be used in conjunction with the Articling and Admission Regulations contained in the Nova Scotia *Legal Profession Act* and Regulations, in particular Part 3, as well as with the *Code of Professional Conduct*. It is imperative that Principals and Articled Clerks become familiar with all aspects of these rules and regulations.

ROLE OF THE SOCIETY

1.1 Credentials Committee

It is the responsibility of the Society's Credentials Committee to establish standards for, and administer, the Articling and Admission Process, including enrolment of Articled Clerks and admission to the Bar. While the Committee endeavours to ensure that those standards are met consistently, it is not possible for the Committee to closely supervise the quality of each Articled Clerk's articling experience. The Society therefore relies heavily on Principals to provide proper degrees of experience and supervision to each Articled Clerk, and upon Articled Clerks to take initiative to gain exposure to the practice of law in general, and to acquire all the necessary skills.

To support Principals and Articled Clerks in this regard, the Society has developed a Competency Framework which identifies the performance criteria which forms the foundation for evaluating competency.

The Committee requires Principals to develop Education Plans, which provide for development of the core lawyering skills and attributes identified by the Society and which must be approved by the Executive Director though their delegate the Director, Education & Credentials prior to hiring an Articled Clerk. Individual Articling Plans are also required. The Articling Plan either confirms the already approved Education Plan or will set out the differences for a particular Articled Clerk. Articling Plans that deviate from the approved Education Plan must be approved by the Director, Education & Credentials.

1.2 Competency Framework

The Committee has developed a Competency Framework which builds on the objectives for the Articling and Admission process. The Competency Framework provides specific performance criteria for measuring the Articled Clerk's skill level, behaviours and attitudes and forms the foundation for evaluating whether the Articled Clerk has the required level of competency to be called to the Bar. The Competency Framework is available from the Society and should be used in developing Education Plans, completing Mid-term and Final Reports, and in assessing an Articled Clerk's competency level at the conclusion of the articling term.

1.3 Education Plan

The Society has moved away from the check list approach and now requires that a lawyer or firm proposing to act as a Principal submit an Education Plan to Education & Credentials for approval prior to hiring an Articled Clerk. This Plan becomes the model for the Articling Program the lawyer or firm offers and must provide for the development of the core skills and attributes identified by Society (lawyering skills, practice and office management skills, professional responsibility and good character). The Plan must provide for a primarily educational experience with emphasis on development of core competencies in the Articled Clerk. The Plan does not have to provide for exposure to a comprehensive range of practice areas, but must enable the Articled Clerk to gain significant exposure in at least one area of a barrister's practice and one area of a solicitor's practice.

In circumstances when a Principal carries on a restricted practice or is unable to provide an Articled Clerk with adequate exposure to a particular practice area, secondment arrangements may be necessary. In order to be approved, the Education Plan must identify the practice area(s) in which secondment will take place, the proposed dates for the secondment and the name of the proposed secondment lawyer. The secondment lawyer must be otherwise qualified to act as Principal.

Any changes to the Education Plan must be approved by the Director, Education & Credentials.

The Society has a [model Education Plan](#) available which can be adapted for firms of various size and Society staff can provide assistance for firms wishing to develop their own Plans.

1.4 Articling Plan

A lawyer or firm acting as a Principal must also file an Articling Plan for each Articled Clerk, which attaches the approved Education Plan. The Articling Plan either confirms the commitments made in the approved Education Plan or identifies changes for approval by the Director, Education & Credentials. The Articling Plan is signed by both the Principal and Articled Clerk.

The Society also has a [model Articling Plan](#) available which can be adapted and Society staff can provide assistance for firms wishing to develop their own Plans.

1.5 Articling Agreement

Rather than entering into Articles of Clerkship as was previously required, Principals and Articled Clerks will now enter into Articling Agreements. The Articling Agreement sets out the covenants of each party over the articling term and must be approved by the Director, Education & Credentials. The Articling Agreement does not preclude any arrangements between the Principal and the Articled Clerk as to employment or such other terms as the parties may agree to in writing.

The Society has developed the [Articling Agreement form](#) for this purpose.

1.6 Mid-Term and Final Reports

Principals and Articled Clerks are required to file a Mid-term Report approximately half-way through the articling term. The purpose of the Mid-term Report is to provide Education & Credentials with information concerning the nature and extent of experience the Articled Clerk has received to date, to identify any areas of deficiency on which to focus for the remainder of the articling term and to ensure compliance with the approved Education Plan.

If deficiencies are noted in any of the skills and practice areas when the report is filed, the Principal will be notified of the deficient areas, and asked to ensure that these areas are addressed in the time remaining.

Principals and Articled Clerks are also required to complete a Final Report which covers the first 11 months of the articling term and which is filed with the Society no later than three weeks before the conclusion of the articling term. The purpose of the Final Report is to provide Education & Credentials with information concerning the nature and extent

of experience the Articled Clerk has received from the Mid-term Report onwards to ensure compliance with the approved Education Plan.

1.7 Articling Problems

In as much as the articling experience can be exciting, challenging and rewarding, it may also be stressful and on occasion, the experience may not meet either the Articled Clerk's or the Principal's expectations. The Society strongly encourages Principals and Articled Clerks to openly communicate about any problems or concerns which may arise. Many firms have Articling Committees to which one can also turn for assistance.

If Principals or Articled Clerks are unable to resolve a problem on their own, then the Society's Director of Education & Credentials may be consulted for advice in this regard. A number of options are available to address problems which arise during the articling term:

- *Education & Credentials Intervention*

The Director, Education & Credentials may be consulted to determine how best to resolve an articling problem. The Director has broad authority to assist Articled Clerks and Principals in this regard.

- *Assignment of Articles*

The Regulations provide that an Articled Clerk may assign articles to another Principal in appropriate circumstances. For example, if an Articled Clerk is dissatisfied with the articles the Clerk is receiving, or with the performance of the Principal with whom the Clerk is articled, the articles may be assigned to another Principal within or outside the firm with which the Articled Clerk is currently articling. This may be done by filing a form available from the Society.

- *Termination of Articles*

The Regulations provide that articles may only be terminated with the approval of the Executive Director. If, after all reasonable efforts have been made to resolve any problems with an articling arrangement, it appears to be in the best interests of the Principal and Articled Clerk to do so, the Articling Agreement may be terminated by application to the Executive Director. Such termination will not jeopardize credit for any period of articles already completed, and under normal circumstances, should not prevent an Articled Clerk from completing the articling term with another Principal.

OBLIGATIONS AND RESPONSIBILITIES OF PRINCIPALS

2.1 Criteria for Serving as a Principal

The success of any articling experience depends on the willingness of the Principals to take an active role in providing the Articled Clerk with knowledgeable and ethical guidance. This responsibility is significant. It is a privilege for any member of the Society to be entrusted with this duty. While the Committee recognizes the value of the mentoring relationship between Articled Clerk and Principal in the traditional relationship between one Articled Clerk who is assigned to one lawyer for the entire period of articles, it also recognizes that other acceptable arrangements exist. In recognition of this, the role of Principal can be assumed by either a lawyer or a firm. In either case, restrictions apply. To qualify as a Principal, a lawyer must have practicing and insured status in Nova Scotia, have resided and practised law in Nova Scotia for at least five years¹, not be otherwise prohibited from acting as a Principal, and be committed to providing Articled Clerks with an articling experience in which the educational component is of paramount importance.

To qualify as a Principal, a firm must satisfy the Executive Director that it is comprised of members who have a commitment to, and support for, providing Articled Clerks with an articling experience in which the educational component is of paramount importance, have a designated Supervising Lawyer who develops an individual Articling Plan with the Articled Clerk and agrees to oversee its implementation, have the Supervising Lawyer, on behalf of the firm, accept responsibility for the Articled Clerk's educational experience and not have more Articled Clerks than there are lawyers who are also otherwise qualified to act as Principals available to provide adequate supervision and feedback.

In addition, the Executive Director has authority to prohibit or limit the articles of an Articled Clerk with a lawyer or firm in appropriate circumstances. If the Executive Director becomes aware of any serious breaches by a Principal of the Professional Responsibility, Trust Account or other Regulations, or of the rules set out in the *Code of Professional Conduct*, it may result in an investigation by the Credentials Committee to determine whether or not that lawyer or firm will be permitted to continue to act as Principal, or whether the articles should be limited in terms of time, areas of practice or both.

2.2 General Responsibilities

The Society takes the position that a Principal entering into an articling relationship has an obligation to provide the Articled Clerk with the time, patience and supervision required to ensure that the Articled Clerks who proceed through the Articling Program will be competent to practice law by possessing the knowledge, skill level and attributes of a newly called lawyer.

¹ The consecutive five year eligibility requirement may be waived in certain circumstances. For more information see [Policy on waiver of five-year eligibility requirement to be Principal](#).

2.3 Specific Responsibilities

A Principal has a duty to ensure that an Articled Clerk is exposed to and has the necessary skills for the practice of law upon admission. This means that a Principal should instruct an Articled Clerk in lawyering skills, practice and office management skills, and professional responsibility. At the conclusion of the articling term, the Principal is required to certify that the Articled Clerk possesses the knowledge, skills and attributes expected of a newly called lawyer, as identified in the Society's Competency Framework. The Society relies heavily upon Principals to provide adequate levels of supervision and experience to Articled Clerks, and it is not expected that Articled Clerks will be used extensively for title searching or as errand runners. While Articled Clerks may occasionally be expected to deliver or serve documents upon other lawyers, this should not be an Articled Clerk's main occupation. Ultimately, Principals must ensure that common sense is applied in determining such matters.

2.4 Compliance with Education and Articling Plans

A Principal also has a duty to ensure that the Articled Clerk's articling experience complies with the Principal's approved Education and Articling Plans and to ensure that the Articled Clerk will be provided with a reasonable opportunity to obtain instruction and training as outlined in the approved Plans.

2.5 Professional Responsibility and Conduct

In addition to and concurrent with the Principal's responsibility to assist the Articled Clerk in obtaining practical experience, it is imperative that the Principal advise and counsel the Articled Clerk in such things as appropriate conduct before the courts, among fellow lawyers and toward members of the public. The Principal must provide the opportunity for Articled Clerks to learn by example how to conduct the practice of law in an ethical fashion. Principals should ensure that Articled Clerks are thoroughly familiar with the *Code of Professional Conduct* and the *Legal Profession Act* and Regulations. The disciplinary functions of the Society should be made clear to Articled Clerks, and Articled Clerks should be instructed to answer promptly and clearly any communication they receive from the Society in the course of their career at the Bar. Because the Society is a self-governing body, it is most important that Articled Clerks be made aware that any breaches of the *Act* or Regulations of the Society by a member should be responsibly reported to the Bar Society.

2.6 Law Practice Management

Principals have a responsibility to ensure that Articled Clerks become familiar with proper law office management procedures, including the operation of both general and trust accounts, prioritizing workloads, tickler systems, staff relations, client relations and correspondence, and other procedures. Some of these topics are covered during the Practice Readiness Education Program (PREP), but practical experience is essential. Experience has shown that Articled Clerks will tend to follow the methods and office

procedures learned in their Principal's offices; however, this is consistently one of the most neglected areas of exposure for Articled Clerks. Principals must provide Articled Clerks with sufficient knowledge and skills in practice management to enable Articled Clerks to establish their own practice following admission.

2.7 Court Appearances

The Regulations set out in some detail situations and circumstances in which Articled Clerks may appear before the courts of this Province. Principals must familiarize themselves with these provisions in order to ensure that Articled Clerks have authority to make appearances which may be proposed. It is emphasized that it is the Principal's responsibility to ensure that the Articled Clerk obtains the required degree of knowledge and expertise under supervision by the Principal or the firm in proceedings before the courts. Principals are reminded that they are at all times responsible for actions of their Articled Clerks and, in particular, the following should be noted:

- a) The Principal must be satisfied that the Articled Clerk is adequately briefed, not only on the facts of the matter but also on the applicable law. Proper deportment and etiquette before the courts must be ensured and the Articled Clerk should be advised on all occasions that the court must be notified that the Clerk is an Articled Clerk, articled to the Principal, and the Articled Clerk is attending with the consent of both the Principal and client;
- b) Except in matters of a very routine nature, the client must both understand and agree that the Articled Clerk may appear instead of the Principal in the matter;
- c) Under no circumstances should an Articled 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 interests of clients to ensure that they obtain the best counsel, and therefore the Principal's attention to these matters is important.

2.8 Suitability of Applicants for Admission

In order to be called to the Bar, an Articled Clerk must have demonstrated attributes of good character during the Clerk's articling term. Demonstrated attributes of good character include honesty, fairness, candor, trustworthiness, observance of fiduciary responsibility, and respect. A Principal is expected to observe the qualities the Articled Clerk exhibits during the articling term and to discuss any issues of good character with the Articled Clerk. At the conclusion of the articling term, the Principal is required to complete a [Statement of Good Character](#) in addition to certifying that the Articled Clerk possesses the knowledge and skills expected of a newly called lawyer. It is the view of the Society that the execution of this [Statement by the Principal](#) is a responsibility which should not be treated lightly.

In spite of safeguards, there will be Articled Clerks who for one reason or another may be unsuitable for the practice of law. This is a very serious matter, and it is the obligation of Principals to report to the Society on a confidential basis if they feel that in their judgment there is any question about the suitability of an applicant for admission to the Bar.

If a Principal learns that an Articled Clerk has been guilty of criminal conduct, untruths, or conduct unbecoming towards a client, another colleague, members of the Judiciary, or the public generally, this should be reported to the Society.

OBLIGATIONS AND RESPONSIBILITIES OF ARTICLED CLERKS

3.1 General

As articling is one of the last steps in the formal legal education process prior to call to the Bar, Articled Clerks are expected to approach the articling experience with a mature and responsible attitude. Articled Clerks are expected to dress appropriately and to conduct themselves in a proper manner. They are encouraged to ask Principals to allow them to be present at interviews with clients and the taking of instructions, giving of opinions, preparing witnesses for trial and so on. Articled Clerks are expected to bring responsible and sensible work practices to their Principals' offices and, when in doubt, to ask questions.

3.2 Compliance with Education and Articling Plans

Articled Clerks should become familiar with the approved Education Plan filed by the Principal as compliance with the Education Plan will be a requirement for admission to the Bar. Articled Clerks should also be familiar with the Articled Clerk's individual Articling Plan, which attaches the approved Education Plan. The individual Articling Plan will either confirm the commitments made in the approved Education Plan or identify the changes approved by Education & Credentials. The approved Education Plan is referenced when Principals and Articled Clerks complete the Mid-term and Final Reports.

The Articled Clerk should take initiative and frequently meet with the Principal to review and discuss the status of the Education and Articling Plans during the articling term.

3.3 Professional Responsibility and Conduct

Articled Clerks are responsible to the Society and are subject to the disciplinary regulations which have been established by the Society. Articled Clerks should read the [Regulations](#) of the Society found on the Society's website. It is also strongly recommended that Articled Clerks read and become familiar with the *Code of Professional Conduct* also available on the website. Articled Clerks are urged to speak with Principals on all matters of an ethical nature which may arise for which the proper solution is not readily apparent.

3.4 Law Practice Management

Articled Clerks must become thoroughly familiar with proper law office procedures, including the operation of both general and trust accounts, prioritizing workloads, tickler systems, staff relations, client relations and correspondence, and other essential procedures. Articled Clerks are advised to approach learning all aspects of law office economics and management from the perspective of a newly called lawyer commencing the lawyer's own practice of law.

3.5 Court Appearances

The Regulations set out in some detail situations and circumstances in which Articled Clerks may appear before the courts of this Province. Articled Clerks should familiarize themselves with these provisions. While Principals are responsible for the actions of their Articled Clerks, it is important for Articled Clerks to understand what is permitted in the Regulations and what is not.

3.6 Work Arrangements

Clerks are expected to complete their articles on a full-time basis. Requests for part-time arrangements or leaves of absence must be approved by the Director, Education & Credentials and must have the approval of the Principal in order to be considered.

Secondment of articles to another lawyer who is also otherwise qualified to act as Principal are permitted as long as the secondment is in accordance with the approved Education Plan.

THE BAR ADMISSION PROGRAM

The Bar Admission Program was established as the means for the Society to determine that those who successfully complete the course possess the required level of competence. Articled Clerks must complete the Bar Admission Program during their twelve months of Articles. Any deviation must be approved by the Executive Director. The Bar Admission Program consists of two components; the Practice Readiness Education Program (PREP) and a one day Cultural Competency Workshop.

Principals and firms must accommodate their Articled Clerks' schedules when attending the Bar Admissions Program. Attendance at all in person sessions of PREP and the Cultural Competency Workshop, is mandatory. Involvement in other work, no matter what its nature, will not constitute an adequate reason for failure to attend these sessions. An Articled Clerk must adhere to the Regulations regarding performing work for a Principal or firm while attending the Bar Admission Program.

Inquiries concerning the Bar Admission Program should be directed to Education & Credentials, 800-2000 Barrington Street, Halifax, Nova Scotia B3J 3K1. Telephone: 902-422-1491; Fax: 902-429-4869.

Inquiries concerning the PREP program should be directed to the Canadian Centre for Professional Legal Education.

APPLICANT'S QUESTIONNAIRE

All Articled Clerk applications must include an Applicant's Questionnaire. This Questionnaire is broken into two forms: Part 1 asks a series of general questions regarding employment and good character; Part 2 asks questions relating to medical fitness. This second form is for the Society's information only, and it is not required that the Articled Clerk submit this to the Articled Clerk's Principal or firm.

The Society has a mandate to protect the public. In carrying out this mandate, the Society must ensure that applicants for admission are fit for the practice of law. The practice of law is often rigorous, demanding a high level of mental and emotional health. Any disability which would hinder a person's ability to practise law competently puts the client's interests at risk.

The Society recognizes that most people experience pressures in life and that people respond to those pressures differently. An individual may be quite capable of practising law competently, in spite of past physical, mental or emotional problems. Because someone may have sought professional assistance for a mental illness or emotional problem is not a bar to admission. It usually does call for further inquiry, however, and would only prevent admission if the Society concluded that the disability or illness would render the person incapable of practicing law competently. In most cases, evidence of having sought professional assistance is indicative that the person is actively seeking to deal with the condition and take control of his or her life.

ADMISSION

There are normally quarterly calls to the Bar which take place in January, April, June and October. Clerks completing their admission requirements by June 1st will be called to the Bar at the main June admission ceremony. No later than three weeks before the conclusion of articles, applicants are required to pay their admission fees and file with the Nova Scotia Barristers' Society the documents required by the Regulations. These documents must first be approved by the Director of Education & Credentials on behalf of the Executive Director, and they include the following: a Final Report, Certificate of Principal, Statement of Good Character, and Biography.

Applicants for admission must appear in the proper attire of a lawyer (waistcoat, robe, wing collar shirt, tabs and black or dark gray trousers or skirt and black shoes) and will be presented to the Court by a member of Council. Following the Admission Ceremonies, new admittees are required to sign the Roll of Lawyers.

SPECIAL ACCOMMODATION

Articled clerks requiring an accommodation during PREP must contact CPLED (Canadian Centre for Professional Legal Education).

LAWYERS ASSISTANCE PROGRAM

The Lawyers Assistance Program was established to assist members of the legal profession, including Articled Clerks, their staff and families, with problems related to substance abuse, stress and other personal difficulties. The Program is a confidential, 24-hour service operated by experienced volunteers and professionals who are available to help resolve a number of problems. Referrals can be made to private counselors, with up to five sessions paid for by the Program.

Information is not provided to anyone or any organization without your permission. Your right to privacy is respected and strictly observed.

The phone number is 1-866-299-1299 from anywhere in Nova Scotia, 24 hours a day. Review the Lawyers Assistance Program's [website](#) to learn more about the program and the services it provides.