



## NOVA SCOTIA BARRISTERS' SOCIETY

### Policy on Education Plans for Transfer Applicants

#### 1.1 Requirement for Supervision

**1.1.1** Pursuant to Regulation 6.5.8, following consideration of a transfer application, the Executive Director<sup>1</sup> may, when it is in the public interest to do so, require that a transfer applicant serve “...a period under the supervision of a practising lawyer, acceptable to the Executive Director, who would qualify to be a principal under Part 5 of these regulations” (Reg. 6.5.8(a)). The Executive Director will select this option as a component of the written ruling, if it is determined, based on a review of the application, that the applicant will need a period of supervision under an approved Education Plan in order to ensure competency.

#### Purpose of this Policy

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

#### 2.1 Guiding Principles

**2.1.1** In most cases, an Education Plan developed for a transfer applicant who has already articulated and been admitted to the Bar, will be different from an Education Plan developed to teach an Articled Clerk lawyering skills to the level of a newly-called lawyer. Accordingly, the Education Plan for each applicant will be developed on a case by case basis to meet the needs of the individual applicant, as well as the needs of the public.

#### Criteria for Transfer Applicant's Education Plan

**2.1.2** This policy setting out the education plan framework reflects the need for flexibility so that the Education Plan meets the circumstances of each applicant and reflects the level of supervision applicable to those circumstances. In order to be approved, however, all Education Plans pursuant to this Regulation must incorporate the following criteria. The Education Plan must:

- (a) Appropriately address the requirements for admission on transfer, as set out in the Executive Director's written ruling.
- (b) Be in effect for the full period of service as set out in the written ruling.
- (c) Be tailored to the applicant's situation. For example:
  - i. Will the applicant be working in a firm and engaged in several practice areas?
  - ii. Will the applicant be employed on contract for a special initiative?
  - iii. Will the applicant be acting as a consultant?
  - iv. Will the applicant be employed in a corporate counsel role?
- (d) Clearly define the role of the supervising lawyer in the circumstances. This shall include confirmation that the supervising lawyer will report to the Executive Director as to the applicant's progress.
- (e) Clearly set out a process for monitoring the education of the applicant so that the

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<sup>1</sup> Or Credentials Committee if application referred to the Committee by the Executive Director pursuant to Regulation 6.2.8.

requirements of the written ruling are met. This shall include a description of the process by which the supervising lawyer will report to the Executive Director as to the applicant's progress.

- (f) Recognize that the supervising lawyer must otherwise qualify to be a Principal.

### **Education Plan Framework**

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

### **Applicants who may require a more comprehensive Education Plan**

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

- (a) has recently upgraded membership category in the home jurisdiction in anticipation of a mobility application;
- (b) has little or no practical experience, or with experience unconnected to his or her upcoming employment (*eg: applicant worked in a boutique patent and trademark firm, and now intends to practise criminal and family law*); or
- (c) has transferred from a non-Canadian jurisdiction with a different legal system or manner of regulation of the legal profession.

### **Monitoring Built into the Education Plan**

**2.2.2** If an applicant requires a more comprehensive Education Plan, close supervision and monitoring of the applicant would be built into the Plan, together with a reporting structure as to the applicant's progress.

### **Applicants with Practise Experience or Relevant Work Experience in a Jurisdiction Similar to Nova Scotia**

**2.3.1** For an applicant who has been or will be practising in an area with which the applicant has experience or where the applicant will act as a consultant, and who comes from a jurisdiction with a similar legal system and manner of regulation of the legal profession, the Education Plan may:

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

### **Other Situations**

**2.4.1** In other situations, considering the applicant's history, a hybrid of the two models may be appropriate. In all situations, however, the criteria for evaluating Education Plans set out above

must be addressed.

*Approved by the Credentials Committee – March 22, 2013*

*Revised by the Credentials Committee – March 26, 2020*