



NOVA SCOTIA BARRISTERS' SOCIETY

POLICY ON PRINCIPAL'S APPLICATIONS

Preamble

A principal¹ is a role model and mentor to an articulated clerk. Over the course of the Articling Agreement, the principal undertakes to provide the articulated clerk with an appropriate educational experience. The Credentials Committee ("Committee") recognizes a Clerk learns both formally (e.g. by completing assignments and receiving feedback) and informally, through observation. Accordingly, the eligibility criteria were designed so that principals have sufficient practice experience, a demonstrated commitment to an articulated clerk's education and supervision, and exhibit qualities suitable for emulation.

1.1 Application to be a Principal

1.1.1 Pursuant to Regulations 3.5, the following may apply to the Executive Director to be a principal:

- (a) a practising lawyer,
- (b) a law firm, or
- (c) an office of a law firm which has more than one office in Nova Scotia.

1.1.2 Limitation on Number of Articled Clerks - Individual

Pursuant to Regulation 3.5.29, a principal who is a practising lawyer may only employ one (1) articulated clerk:

- (a) unless the principal obtains the prior approval of the Executive Director in which case the principal may employ a second articulated clerk; or
- (b) unless an articulated clerk has been allowed to extend the Articling Agreement, pursuant to subregulation 3.4.2(h), in which case the Executive Director may allow the principal to extend an articulated clerk.

1.1.3 Limitation on Number of Articled Clerks – Firm

Subject to the exceptions of 1.1.2 above, a principal which is a law firm or office of a law firm may employ only as many articulated clerks as there are practising lawyers within the firm or office, as the case may be, who would qualify as a principal.

2.1 Eligibility Requirements

2.1.1 Regulation 3.5.1 sets out the eligibility requirements:

¹ For the purpose of this Policy, "Principal" includes Supervising Lawyer and Secondment Lawyer.

Eligibility

3.5.1 To be a principal, a practicing lawyer or a law firm must,

- (a) if the applicant is a practising lawyer, have practised for at least five years immediately preceding becoming a principal,
- (b) if the applicant is a law firm or an office of a law firm of at least 2 practising lawyers, designate one practising lawyer of the firm or office who individually qualifies to be a principal, to be the supervising lawyer responsible for the Education Plan and individual Articling Plans and to oversee the educational experience;
- (c) not be prohibited from being a principal by a Hearing Panel or as a result of the processes prescribed by Part III of the Act;
- (d) not have been convicted of any charges pursuant to Part III within 3 years from the date of the application to be a principal;
- (e) not have any outstanding charges pursuant to Part III of the Act;
- (f) 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 or any province of Canada;

Within 3 years from the date of the application to be a principal.

- (g) not be participating in the Fitness to Practice program;
- (h) not have been suspended pursuant to Part III;
- (i) not have any practice restrictions imposed by order of the Complaints Investigation Committee or otherwise under the Act or Regulations;
- (j) have an Education Plan that meets the Committee's prescribed requirements for Education Plans; and
- (k) have an Articling Plan that meets the Committee's prescribed requirements for Articling Plans;
- (l) demonstrate a commitment and ability to provide articulated clerks with an articling experience in which the educational component is of paramount importance;
- (m) demonstrate a commitment and ability to provide supervision and feedback to articulated clerks;

Application Requirements

2.1.2 Regulation 3.5.4 sets out the application requirements:

Content of Application

3.5.4 An application to be a principal must be in a prescribed form and must provide:

- (a) the name of the practicing lawyer or law firm;
- (b) confirmation the practicing lawyer or law firm is eligible to be a principal;
- (c) a proposed or previously approved Education Plan;
- (d) a proposed Articling Plan to be used by the principal when entering into a specific Articling Agreement with an articulated clerk; and
- (e) such other information as may be required by the Executive Director.

Approval of Application by the Executive Director

2.1.3 The Executive Director will approve an application that meets the eligibility requirements.

Denial of Application

2.1.4 Subject to paragraph 2.1.5, the Executive Director will deny the application if the practising lawyer or law firm does not satisfy the requirements of subregulation 3.5.2(a) to 3.5.2(k). There is no appeal from this decision.

Abridgement of Practice Time

2.1.5 If an applicant meets the eligibility requirements of Regulation 3.5.2(b)-(m), but has not practised continuously for five years, the Executive Director may pursuant to Regulation 3.5.3 exempt the applicant from the requirements of Regulation 3.5.2(a) if it is appropriate to do so.

2.1.6 In determining if an exemption pursuant to Regulation 3.5.3 is appropriate the Executive Director shall consider the factors set out in the Policy on Waiver of five year eligibility requirement to be Principal.

3.1 Referral of Application to the Credentials Committee

3.1.1 The Executive Director must forward to the Committee any application for which there is reason to believe the practising lawyer or law firm does not satisfy the requirements of subregulation 3.5.1(l) or 3.5.1(m).

Consideration of Application by the Committee

3.1.2 The Committee will determine if the applicant satisfies the requirements of subregulation 3.5.1(l) and 3.5.1(m). To assist it in making this determination, the Committee may review:

- (a) materials submitted by the practising lawyer or law firm, and
- (b) other relevant information in the possession of the Society.

Information to be provided to Applicant

3.1.3 The Committee will provide the applicant with a copy of all materials and other information reviewed by the Committee.

Options for the Committee on the Application

3.1.4 After considering the application and all information provided by the applicant and the Society, the Committee may:

- (a) approve the application without terms or with terms that the Committee deems fit and proper; or
- (b) dismiss the application, but the Committee may not dismiss an application unless, prior to making its final decision, it provides the applicant with an opportunity to provide written submissions and any further information.

Written Decision Required

3.1.5 If the Committee dismisses the application, the Committee will provide the applicant with written reasons for dismissal.

Decision is Final

3.1.6 The Committee's decision pursuant to subregulation 3.5.13 or 3.5.14 is final.

Requirement to Reapply

3.1.7 A lawyer who has been approved to act as a principal must file a new application for approval as a principal annually.

4.1 Procedure on Replacement of Supervising Lawyer

4.1.1 Limited Definition of Principal in section 4.1 of this policy

In this section, "principal" refers to a law firm or office of the law firm, but not an individual practising lawyer.

Notification to Executive Director Required

4.1.2 If the principal replaces the supervising lawyer pursuant to subregulation 3.5.17, the principal will notify the Executive Director and advise the Executive Director of the name of the new supervising lawyer.

Steps Required Following Notification

4.1.3 Following such notification, the Executive Director may require the principal to reapply to be a principal or may take such other steps as the Executive Director deems appropriate.

5.1 Withdrawal of Privilege of being a Principal

5.1.1 A principal will lose the privilege of acting as principal should the principal no longer be eligible for reasons described in subregulation 3.5.19 and as set out below:

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

Executive Director to Withdraw the Privilege

5.1.2 The Executive Director will withdraw the privilege of acting as principal if subregulations 3.5.19(a), (b) or (c) apply.

Referral to the Credentials Committee – Withdrawal of Privilege to be Principal

5.1.3 The Executive Director must forward to the Committee for consideration any matter pertaining to a principal for which there is reason to believe subregulations 3.5.19(d) or 3.5.19(e) apply.

Consideration by Committee - Withdrawal of Privilege to be Principal

5.1.4 The Committee will determine if subregulation 3.5.19(d) or 3.5.19(e) apply to a principal. To assist it in making this determination, the Committee may review:

- (a) materials submitted by the principal, and
- (b) other relevant information in the possession of the Society.

Information to be Provided to Principal

5.1.5 The Committee will provide the principal with a copy of all materials and other information reviewed by the Committee.

Options for the Committee

5.1.6 The Committee may withdraw the privilege to be a principal, but may not do so unless, prior to making its final decision, it provides the principal with an opportunity to provide written submissions and any further information.

Written Decision Required - Withdrawal of Privilege to be Principal

5.1.7 If the Committee withdraws the privilege to be a principal, the Committee will provide the principal with written reasons.

Decision is Final - Withdrawal of Privilege to be Principal

5.1.8 The Committee's decision pursuant to subregulation 3.5.24 is final.

Decision will affect Articled Clerk

5.1.9 The Society recognizes that the action of withdrawing the privileges of a principal will affect the articled clerk(s) who had been employed by the principal. Accordingly, the Executive Director will take appropriate action with respect to the articled clerk.

6.1 Termination by Principal

6.1.1 If a principal wishes to terminate an Articling Agreement, the principal may apply to the Executive Director and provide information required to allow the Executive Director to consider the application.

Executive Director may approve application to terminate

6.1.2 The Executive Director may approve an application to terminate an articling agreement on such terms as the Executive Director deems appropriate.

Policy and Procedure for Application for Termination of Articles also applies

6.1.3 See also the *Policy and Procedure for Application for Termination of Articles*.

Approved by the Credentials Committee – September 17, 2010

Revised by the Credentials Committee – March 26, 2020

Revised by the Credentials Committee – May 26, 2023