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# FOLA Submissions

## Comments on Proposed Regulation under the *Administration of Justice Act* Ontario Regulation 94/14 (O. Reg. 94/14), *Fees for Court Transcripts*

Submitted to: Ministry of the Attorney General of Ontario  
Court Reporting Services  
[CourtReportingServices@ontario.ca](mailto:CourtReportingServices@ontario.ca)

Submitted on: December 17<sup>th</sup>, 2021

Submitted by: Douglas Judson, Vice Chair, FOLA  
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The Federation of Ontario Law Associations (FOLA) represents the associations and members of the 46 county and district law associations across Ontario. Together with our associate member, the Toronto Lawyers Association, we represent approximately 12,000 lawyers. Most of our members are in private practice across Ontario.

Our members have very specific concerns about the proposed changes to Ontario Regulation 94/19, *Fees for Court Transcripts*. Our primary concern is with how the increased fees will impact lawyers in private practice who are acting for clients under certificates issued by Legal Aid Ontario (LAO) or who are of limited financial means.

The procurement of transcripts for LAO matters has been a longstanding issue, as LAO policies require advanced approval from LAO before the lawyer can order a transcript, and LAO will only pay for a fixed number of pages. LAO routinely under-estimates the length of transcripts, with the result that lawyers end up carrying any overages without reimbursement. This occurs frequently, and sometimes results in significant business losses to the lawyer.

The fee hikes anticipated by the draft regulation are going to compound this problem, and will result in members of the bar being less interested in taking on client engagements which require them to order transcripts. This is a disservice to low-income persons who rely on LAO certificates, but also contributes to existing access to justice challenges. The increase in fees will also impact those of limited financial means as they also will not be in a position to order transcripts, where required.

We suggest that this regulation include exceptions for lawyers acting for LAO, or that the Ministry of the Attorney General, the Law Society of Ontario, and Legal Aid Ontario collaborate to develop a direct-billing model for transcripts ordered by certificate lawyers so that the lawyer does not need to fund these amounts out of pocket. We would also suggest that the regulation consider a fee waiver program like that available under the *Courts of Justice Act* for Superior Court filing fees.

Sincerely,

Douglas Judson  
FOLA Vice Chair

Karen Seeley  
FOLA Northwest Regional Representative

cc: Law Association Presidents, *Via Email*  
Criminal Lawyers Association, *Via Email*  
Law Society of Ontario, *Via Email*  
Alliance for Sustainable Legal Aid, *Via Email*  
Legal Aid Ontario, *Via Email*