



FEDERATION OF ONTARIO
LAW ASSOCIATIONS

FÉDÉRATION DES ASSOCIATIONS
DU BARREAU DE L'ONTARIO

F.O.L.A Legal Aid Report for November 2021 Plenary

Anyone with an interest in Legal Aid Ontario [L.A.O.] knows that the government proclaimed the Legal Aid Services Act [L.A.S.A.] on October 18, 2021. As your representative for F.O.L.A. on the Alliance for the Sustainability of Legal Aid [A.S.L.A.], I can report that we as a collective sought a delay from the Honourable Attorney General Doug Downey. We went on record with concerns about lack of consultations on last minute Rules and Policies drafted by L.A.O. . Alas the new law came to be.

I bring these issues to your attention because if you have not read the L.A.S.A. - you should!! More information can be found [here](#).

In advance of ratification of this law, there were significant efforts by A.S.L.A. to review the draft Rules and to provide commentary. A number of sub-committees were struck. The one even dealt directly with the issue of consultation, as the new law envisions that L.A.O. must consult with the stakeholders. F.O.L.A. was invited and did participate on this sub-committee. Our consultation draft materials, spear headed by the Law Society of Ontario, appeared well received by L.A.O. However, in practice concerns continue to abound over what is perceived to be a continued lack of meaningful consultation.

Furthermore, despite countless hours invested by many stakeholder representatives, unfortunately, in the end many of the points raised to address concerns of the practicing Bar were not remedied within the L.A.O. drafted Rules. Please, read the rules now governing the L.A.O. lawyer. The new Rules can also be found in our L.A.S.A section on our website [here](#).

L.A.O. tells us that these Rules were required for L.A.O. to remain operational once the new legislation became law but that draft Policies would flow, with some pre-ratification and most post presented. Member groups within A.S.L.A. have identified time constraints and an inability to

respond in a timely manner to these draft policies. A.S.L.A. initially exerted every effort to comment on the available policies pre the October proclamation of L.A.S.A. But it was soon discovered that these Policies and the Rules as drafted by L.A.O. would stand as is. As for the draft Policies, post October 18, A.S.L.A. stakeholders have identified early January, 2022 as our realistic target for meaningful consultation. A.S.L.A. volunteers have invested significant time and effort into these issues and many are disappointed and frustrated by the end result.

To effect meaningful change and input we need the practicing Bar to care. We need your engagement. We need to show that it matters to the Private Legal Aid Practitioners.

F.O.L.A. has requested your input so we can properly comment on concerns and issues related to the new policies. I am willing to reengage in the consultation process but your input is needed. Katie Robinette, F.O.L.A. Executive director and I have emailed you (the Presidents) asking for your input by December 1, 2021. If you have already sent our request to your membership – thank you. If not, why?

The drafting and implementation of L.A.O. policies are significant issues for the practicing Bar. It impacts many areas of law. It will change the practice at many levels. Your voice matters. We need to hear from the members to know the impact concerns. We want to be your voice. I want to hear you and I want to advocate, in consultation with other stakeholder groups.

This is a time of significant change. You would be most surprised by some of the mandates placed on the legal aid certificate lawyer within the new L.A.O. system of operation. Concerns have even been raised about conflict with professional duties to the Law Society of Ontario.

What is your opinion?

What do you want to say about these pressing matters?

Again, information can be found [here](#). Please do take a moment to read and comment.

Tell us any concerns or comments related to the rules and policies.

We want to hear from you the Presidents and from your membership:

terrylbrandon@acriminaldefence.ca

or to Katie at:

katie.robinette@fola.ca.

Meanwhile, on another topic, L.A.O. funding is still a never-ending concern. The courts continue to be back-logged, even more so due to the pandemic. The government has allotted significant additional funds to the Crown offices to address the large volume of cases before the court. But where is the private bar L.A.O. funding? What do you want to share about your concerns here?

Are you reading about and following the headlines about the “Judicial Intensive Case Management Courts”? Will you accept these Legal Aid Certificates? Are you concerned about the limitations of the coverage? Are you concerned about the implementation without meaningful defence private bar consultation? Or are you just moving on with your daily practice?

Is the pandemic impacting your Legal Aid practice? Are you suffering staff burn out? Staffing issues, like the courts? Are you able to get your L.A.O. billings filed on time without COVID delay extensions of billing deadlines?

Now is the time to speak up. Tell us your positions on these aforementioned L.A.O. topics or advise us of other areas of concern or complement to the L.A.O. system. We need your participation and input so F.O.L.A. can be organized and equipped to engage in meaningful consultations with L.A.O. and Attorney General Doug Downey.

This time of complex court congestion is a time for us to find a meaningful audience to hear our concerns and creative solutions to assist all in problem solving and maneuvering through these difficult pandemic days.

Lastly, in this update, it is my understanding that all LAO staff continue to work from home.

As your F.O.L.A L.A.O Chair, I continue to wish each of you success in your ability to adjust your practice to both stay healthy and productive.

In closing, I remind you that your voice matters and FOLA welcomes your input.

With gratitude, I once again thank each and every one of you, as members of the Federation of Law Associations, for placing your trust in me and I look forward to continuing to serve FOLA in the year to come.

With well wishes,



Terry L. Brandon,
FOLA LAO Chair
&
FOLA Southwest Regional Representative

WE remind our membership that participation on ASLA joins FOLA with the below list of other member organizations:

Association of Community Legal Clinics of Ontario

Criminal Lawyers'

Association Family

Lawyer's Association

Law Society of Ontario

Ontario Bar Association

Refugee Lawyers

The Advocates' Society

The Mental Health Legal Committee