

January 24, 2022

Legal Aid Ontario

Atrium on Bay

40 Dundas Street West, Suite 200

Toronto, Ontario

M5G 2H1

via email: consultation@lao.on.ca

Dear Legal Aid Ontario,

Re: Legal Aid Consultation, Minimum experience standards for roster members

For over 130 years, the Toronto Lawyers Association has represented the interests of lawyers practicing in the City of Toronto. The TLA operates the Courthouse Library, one of the largest private law library collections in Canada, and currently has over 4,000 members.

Below we enclose some comments with respect to the Legal Aid Ontario's Consultation on the proposed changes to the roster requirements for various areas of law.

Family Law Recommendations

- It is important that there be minimum standards to ensure that the most vulnerable clients are served by lawyers well-versed in family law.
- It is equally as important that the minimum standards be reasonable and attainable. As written, they are exclusionary. The minimum standards, as drafted, favor lawyers practising as part of larger firms who will more easily attain the requisite experience.
- Realistically, many family lawyers who accept legal aid are sole practitioners and they will have difficulty gaining the experience required to satisfy the minimum standards as articulated.
- Racialized licensees are disproportionately unable to secure traditional articling positions as the result of systemic discrimination and, after completing the LPP program, will open their own firms. They too will be unable to meet the minimum standards.
- Without a robust training/mentoring program, that is also mandatory, the minimum standards will serve to restrict new, and disproportionately racialized licencees from accepting Legal Aid certificates for family law.
- The mandatory minimums need to incorporate flexibility for maternity leave and/or choice of part time practice for those with childcare or other obligations.

Criminal Law Recommendations

- The currently proposed roster standards would make it difficult for new lawyers to gain experience.
- The new standards would make it difficult for newer lawyers to obtain clients through legal aid, preventing many criminal defence lawyers from gaining experience when commencing their practices.
- Lawyers should be competent. Our concern is that having, for example a minimum of 5 completed ORB proceedings or a minimum of 20 files in three years before being authorized to deal with mental health or criminal matters in general, will have the effect of excluding access to justice for the most vulnerable segments of society.
- We believe that Legal Aid should have a robust mentoring program in Criminal Law, given the stakes for the accused person and to ensure that new counsel can provide legal aid services. With that in mind, the new standards do not discuss any increase in certificate approval for second chair/co-counsel in various situations. And we wish to see that done to ensure new counsel gain the requisite experience for the benefit of accused persons and their own competency in their future practices.
- On the reading list, we believe that a lawyer should also be familiar with s.493.2, a newer provision of the *Criminal Code of Canada*, dealing with overrepresentation of aboriginal or other vulnerable peoples in the custody in the context of bail.

We wish to thank you for your allowing us an opportunity to comment on your proposed changes to the roster requirements.

Sincerely,

A handwritten signature in cursive script, appearing to read "Michael J. White".

Michael J. White
President
Toronto Lawyers Association