

# ARTICLING GUIDELINES

## The Mutual Obligations of Principals and Students

### Introduction

No two principals will be able to provide exactly the same type of training for students, but these guidelines are directed at achieving an appropriate standard. Please read them carefully and keep them in your *Member's Manual* for easy reference.

### General

It is the responsibility of the principal to see that the student is instructed generally on the various aspects of the practice of law and of professional conduct; this responsibility is not lessened merely because the Law Society supplies students with certain material and requires them to take the Professional Legal Training Course (PLTC).

When a lawyer becomes a principal, he or she has a very heavy obligation to the student and to the profession as a whole, which the Law Society expects to be fulfilled properly.

### Functions of professional bodies

At an early stage of the articling period, the principal should discuss with the student the functions of the professional bodies with which the student will become associated and encourage the student to participate in the activities of these professional bodies.

In particular, the principal should take the time to review with the student the role of the Law Society, the provisions of the *Legal Profession Act*, the Law Society Rules and the *Professional Conduct Handbook*. The student should be made aware of the basic function of the Law Society to set the standards for call and admission. The disciplinary functions of the Law Society should be explained to the student, and it should be emphasized that any enquiry that the student may receive from the Law Society during the student's articling period or professional career must be promptly and fully answered.

The student should be instructed that, when encountering what appear to be breaches of the Law Society Rules or *Professional Conduct Handbook* by a lawyer, he or she may have an obligation to report these matters to the Law Society. However, reports of this nature should not be made frivolously or in moments of anger.

### Competence

The student should understand that the Law Society is seriously concerned with the continuing competence of lawyers and should be made aware that lawyers have a responsibility to clients and the profession to maintain competence in the fields of law in which they practise. In particular, lawyers have a responsibility not to practise in fields in which either they have not become competent or have not maintained competence.

## ARTICLING

A lawyer should have no hesitation in referring a client with a problem in a particular field to a partner or associate or, if there is no partner or associate competent in that field, to a lawyer in another firm. The student should be told that lawyers are required to keep current on all developments in the areas of law in which they practise, particularly on new legislation, and should be told to take advantage of the courses that are offered by the Continuing Legal Education Society of BC throughout their career.

### **Professional conduct**

The Law Society often has to deal with instances of questionable ethical or professional conduct that would not have arisen had the lawyers concerned been properly instructed as students by their principals or had they taken the opportunity to consult with other lawyers.

Probably the most important responsibility of the principal is to give the student adequate instruction on professional conduct and responsibility towards the courts, clients, the public and other lawyers. The principal should discuss the *Professional Conduct Handbook* with the student. The *Handbook*, of course, is not exhaustive, and there is no substitute for the experience and practical knowledge of the principal.

The student should be cautioned that, after call to the Bar, there will be times in which she or he may be unsure of the appropriate ethical or professional position or that of other lawyers with whom the student is dealing. A newly called lawyer should never hesitate to discuss these matters with a Bencher, a Law Society practice advisor or a senior practitioner.

### **Practical training**

The Law Society recognizes that not every student can article with a firm that does work in all areas of the law and recognizes that many principals will not be able to offer the student practical training in all fields. The principal does, however, have an obligation to see that the student has adequate exposure to the lawyering skills and at least three practice areas set out in the Articling Skills and Practice Checklist (“the Checklist”), which is appended to these guidelines. A principal has an obligation to arrange with another lawyer to give the student the required experience in those areas in which the principal’s practice or the practice of the lawyer’s firm, corporation or government department cannot give the student sufficient experience.

The principal has a responsibility to see that the student becomes familiar with good general office practice and is shown how to treat clients in a competent and courteous manner. The principal must stress the obligation to respond promptly to correspondence and telephone calls, expose the student to office practices such as maintaining general and trust accounts and generally give instruction on the way to run a law office on a day-to-day basis.

An important obligation of the principal is to see that the student does not, either by requirement of the firm or by the student’s natural inclination, channel time into particular practice areas to the exclusion of others.

## ARTICLING

The Law Society receives complaints that some principals use their students as runners and registry clerks to an excessive degree. While it is necessary for a student to have a practical working knowledge of the various registry offices, to occupy more than an average of four hours of the student's working week in this type of activity is inappropriate and the lawyer who requires this is not fulfilling the function of a principal.

A similar criticism can be made of using students to an excessive degree for the preparation of opinions. The preparation of opinions is of course important, but a principal should bear in mind that the student has spent three years studying the law and the purpose of the articling period is to give instruction in the practical application of the law and running a law practice. This cannot be done if a student is spending an excessive amount of time researching law and writing opinions.

Although the Law Society Credentials Committee endeavours to set adequate standards for enrolment as a student, from a practical point of view, it is impossible to conduct a detailed examination of each student. Unfortunately, there will be students who, for one reason or the other, have some defect in either character or personality that may make them unsuitable for call to the Bar. This is a very serious matter and there is an obligation on the principal who observes the student on a day-to-day basis to report to the Law Society if, in the principal's judgement, there is any question about the student's suitability to be called to the Bar.

There have been instances in which a principal has learned that a student has been guilty of untruths or conduct towards a client or lawyer that the principal considered to be unprofessional or unbecoming a lawyer. In a minor matter, the principal must speak to the student and be satisfied that the incident is an isolated one, not likely to be repeated. Unless the principal is satisfied of this, there arises an obligation to report the problem to the Law Society. A principal should not hesitate to do so; in any event, the principal will be asked for mid-term and final progress reports during the articling period.

### **Assignment of articles**

Sometimes a student will ask permission from the principal to assign articles. This may be because of a conflict between the principal and the student or because the student is seeking wider experience, but often it is because the student has an opportunity for employment after call with a firm that would like to employ the student for the balance of the articling period. On occasion, this could pose a problem for the principal who may feel that the student has signed a contract for a fixed period of employment and should fulfil it.

Since the objective of the articling period is to provide training for future members of the Bar, which is in the interests of the Bar as a whole and not just that student, and since it is not the objective to provide relatively inexpensive labour for the principal, no principal should unreasonably withhold a request to assign articles under these circumstances.

**To the principal**

**(a) Students appearing as counsel**

Principals should review the list of courts or tribunals listed in Rule 2-43. It is your responsibility to ensure that the counsel experience of your student in front of these courts or tribunals is permitted under Rule 2-43 and is properly supervised.

You are at all times responsible for the conduct and actions of your student, and the following should be particularly noted:

- (i) Except in routine matters, your client must first understand and agree that your student will be handling the matter;
- (ii) You must ensure that your student, on all occasions, advises the judge or presiding official of his or her name and that he or she is an articulated student and articulated to you;
- (iii) You have a responsibility to the court or tribunal to brief your student adequately on all matters on which she or he will be appearing alone. This applies, not only to briefing on the facts and the law, but also on proper etiquette and decorum.

It is the opinion of the Benchers that these responsibilities cannot be adequately fulfilled unless you or another lawyer on your behalf attends with your student until you are completely satisfied as to the student's ability to appear alone.

**(b) Range of articling experience**

You are asked to familiarize yourself with the Checklist appended to these guidelines. In order for a student to receive a fully rounded set of articles that will properly prepare her or him for the practice of law, it is essential that the student receive practical training and experience in all of the lawyering skills. The Benchers strongly recommend that students obtain practical training and experience in a minimum of three practice areas as described in the Checklist. You should review the student's progress from time to time to ensure that she or he is receiving proper training and that you both will be in a position to declare that the student has completed the items on the Checklist.

At the mid-point of the articling period, you will be asked to submit a brief interim report on the student's progress. The purpose of this report is to identify and hopefully correct any problems that may be developing and that may cast doubt on the student's fitness for call and admission as well as any problems in completing the Checklist requirements.

### **To the articulated student**

You are now entering what is, in effect, the last phase of your formal legal education prior to call and admission and, as an articulated student, you will begin to balance out your studies with practical work under the supervision and guidance of your principal.

As an articulated student, you also become responsible to the Law Society and should study the Law Society Rules and the *Professional Conduct Handbook*, both of which will have an effect on your career as a student and later as a lawyer. At this stage, your attention is drawn to some preliminary matters:

**(a) Student identification card**

Your Law Society student identification card is required to gain entrance to the Vancouver Courthouse Library after hours on weekdays and on weekends. You may also find the card necessary for identification purposes at the registries and at prisons.

**(b) Bencher interview**

During your articling period, you will receive instructions concerning a personal interview with a Bencher, who will make a report to the Law Society.

**(c) Range of articling experience**

To ensure that you receive a fully rounded set of articles from your principal, your obligation to obtain practical training and experience in all lawyering skills and at least three practice areas set out in the Checklist should be kept in mind during the course of your articles.

The Law Society will also require you and your principal to complete joint mid-term and final reports for your articling period.

**(d) Secondment**

As provided in the Rules, a principal may permit an articulated student to attend in the office of another lawyer who is qualified to act as a principal, for a period or periods not exceeding in total eight weeks of the student's prescribed term of attendance, for the purpose of the student obtaining training in practice areas in which the principal is unable to instruct the student.

There are no forms that must be submitted in order to carry out the above; however, the Law Society should be informed by letter of the period during which the student will be attending another office. Permission may also be granted, with or without conditions, for an extension of the eight-week period of secondment.

## ARTICLING

**(e) Appearances as counsel**

The Law Society frequently receives queries from principals and students on students appearing as counsel. Refer to Rule 2-43 of the Law Society Rules.

The general rule is that, if a particular case is not specifically covered by this Rule, a student is not permitted to appear.

**(f) Termination of articles**

The Benchers have established as policy that neither a principal nor a student should terminate articles without a report from each party being made to the Law Society and, unless the termination was by mutual agreement of the student and principal, the matter will be referred to the Credentials Committee.

**(g) Call and admission**

An articulated student qualifies for call to the Bar and admission as a solicitor of the Supreme Court of British Columbia on successful completion of the articling period (including fulfilment of the Checklist requirements) and PLTC. However, the student must apply for call and admission and pay the required fees before beginning a career as a lawyer. The application may be made at any time, but should be made at least 30 days in advance of the intended practice start date to ensure that a practising certificate is issued in time.

**(h) Presentation in open court**

New lawyers must be presented to the court in a call and admission ceremony, but no longer need to attend that ceremony prior to issuance of their practising certificates. However, presentation to the court is required before the first renewal of a certificate (i.e., before the end of the calendar year in which a lawyer qualifies for call and admission). As an exception, a lawyer who qualifies for the first time in the last four months of the calendar year may have his or her certificate renewed once without presentation in court. The lawyer must be presented to the court before the end of the calendar year after the one in which he or she qualifies for call and admission.

Each student who applies for call and admission will be informed of the options available for presentation to the court.

ARTICLING

APPENDIX

**Articling Skills and Practice Checklist**

During the Articling Term, \_\_\_\_\_ (the Student) shall obtain practical experience and training in the following:

1. **Ethics** — Practical experience and training in ethics including the following:
  - A lawyer’s duties to the courts, clients, the public, other members of the profession and him or herself;
  - A lawyer’s duty to adhere to the highest ethical standards, including demonstrating courtesy and good character in all dealings;
  - The ability to recognize circumstances that give rise to ethical problems and to recognize that such problems benefit from prompt and serious attention and from guidance from others;
  - A lawyer’s obligation to maintain and enhance the reputation of the profession, including acting in a respectful, non-discriminatory manner, protecting all client confidences and discharging all undertakings.
  
2. **Practice Management** — Practical experience and training in practice management, including the following:
  - Effective client communication, development and relations;
  - Appropriate timekeeping, reminder systems and billing practices;
  - Teamwork and good relations with office staff;
  - Prioritizing deadlines and workload;
  - Record keeping and file maintenance; and
  - Trust and general accounting and financial planning.
  
3. **Lawyering Skills** — Practical experience and training in *all* of the following lawyering skills (*check all seven*):

<b>Skill</b>	<b>Description/Examples</b>
<input type="checkbox"/> Research	Conducting legal research, including identifying issues, selecting resources and recording, analyzing, applying and communicating research results.
<input type="checkbox"/> Writing	Writing legal opinions and other communications in a clear, well-organized, and succinct manner that meets the purpose of each communication, ensures accuracy of content and maintains civility.
<input type="checkbox"/> Drafting	Drafting legal documents (such as leases, agreements and pleadings) that are well-organized, clear, succinct and that meet the intended purpose, both with and without the use of precedents. Understanding and explaining legal documents drafted by others.

## ARTICLING

<b>Skill</b>	<b>Description/Examples</b>
<input type="checkbox"/> Advocacy	Representing a client effectively, including preparing, presenting and testing evidence and arguing persuasively in accordance with the procedures and etiquette of the forum, including conduct of Provincial Court, Supreme Court Chambers or administrative tribunal matters, in accordance with Law Society Rule 2-43.
<input type="checkbox"/> Negotiation/Mediation	Preparing for and negotiating a matter on behalf of a client, including documenting a settlement and/or preparing for and representing or co-representing a client at a mediation.
<input type="checkbox"/> Interviewing	Conducting interviews of witnesses and clients using appropriate questioning techniques, explaining the legal situation clearly and accurately and ensuring there is a mutual understanding with clients regarding retainers, fees and instructions.
<input type="checkbox"/> Problem Solving	Analyzing clients' problems based on the law, the facts and the clients' circumstances, developing, assessing and recommending options for resolution and preparing a plan for implementation.

**4. Practice Areas** — Practical experience and training in a minimum of **three** of the following practice areas (*check three or more*):

- Corporate and Securities
- Commercial
- Intellectual Property
- Criminal
- Administrative
- Labour and Employment
- Immigration
- Family
- Real Estate
- Civil Litigation
- Creditors Remedies
- Wills and Estates
- Tax
- Other (one only) \_\_\_\_\_

\_\_\_\_\_  
Signature of Student

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Principal

\_\_\_\_\_  
Date