

Minimum requirements to be authorized to provide legal services by area of law



Purpose and application

This Schedule contains the minimum requirements for a roster member to be authorized to provide legal aid certificate services and duty counsel services in specific areas of law.

Roster members may hold authorization in more than one area of law.

To be authorized to provide legal aid services in a particular area of law, an applicant for enrollment on the Roster or a roster member must satisfy the Corporation that they meet all applicable criteria for that area of law and must certify that they are qualified to provide high-quality, effective, efficient legal services in the specified area of law.

For greater clarity, experience as described in this Schedule consists of experience obtained while holding the status with the Law Society of Ontario of "In private Practice".

AREAS OF LAW

Criminal Law (General)

Minimum Experience

Completion of a minimum of 20 criminal law files within the last 3 years before seeking authorization, which must include at least three contested trials, preliminary inquiries or appeals or any combination of them totalling three.

An applicant who has been certified as a specialist in criminal law by the Law Society of Ontario is considered to have met the minimum experience.

Criminal Extremely Serious Matters (ESM)

Extremely Serious Matters are youth or adult trials, appeals or extraditions of the following as set out in the Appendix:

1. all murder charges
2. all dangerous offender applications
3. all charges with a mandatory minimum sentence of four years or more

4. charges contained in sections 83.2 to 83.22 of the Criminal Code related to terrorism.

To be authorized to provide legal aid services for ESM, a roster member must be authorized without conditions to provide criminal law legal aid services under Criminal (General).

Conditional authorization is not available to provide legal aid services on Extremely Serious Matters.

Minimum Experience

1. A minimum of five years of solely practicing criminal law, and
2. Within the last five years before seeking authorization, the roster member must have
 - conducted 100 days of contested trials or contested preliminary inquiries;
 - acted as counsel, co-counsel or junior counsel on at least one jury trial;
 - conducted a minimum of five voir dires with issues of similar fact, statements, hearsay or expert evidence; and
 - conducted a minimum of five contested Charter applications related to disclosure, search and seizure, detention or arrest, right to counsel, section 11(b) and abuse of process.

An applicant who has been certified as a specialist in criminal law by the Law Society of Ontario is considered to have met the minimum experience.

It is not necessary for a roster member to be authorized to provide ESM services in order to represent a youth who is charged with an ESM offence where the Crown is seeking a youth sentence and roster member is authorized, without conditions, to provide criminal legal aid services.

Complex Case Rate

The Complex Case Rate (CCR) provides an enhanced rate of compensation for providing legal aid services on murder cases and, in exceptional circumstances, providing legal aid services with respect to other criminal charges that the Corporation considers to be extremely complex. CCR authorization does not entitle an authorized roster member to CCR funding on regular criminal certificates or other cases in the Big Case Management Program.

Authorization to provide CCR legal aid services is limited to a term of four years which may, on application, be renewed for a further term of 4 years.

Minimum Experience

To be authorized to be compensated at the CCR rate, the roster member must be authorized under Criminal Law (General) and Extremely Serious Matters.

Applicants will be assessed on all the information provided and gathered by the Corporation, with particular attention to

- professional experience,

- history of compliance with the Professionalism Standard. and
- relationship with the Corporation.

Gladue Roster Standards

To be authorized to provide Criminal Legal Aid Services for clients who self-identify as Indigenous (Gladue Services), a roster member must:

1. Be authorized as a member of the LAO Criminal (General) roster;
2. Review the material enumerated in the document entitled “Material for review by roster members authorized to provide legal aid services in Gladue” and attest they have reviewed same.

Youth Criminal Matters

Minimum experience

A minimum of six completed or ongoing youth criminal law matters within the last year before seeking authorization.

To be authorized to provide youth criminal legal aid services, a roster member must be authorized under Criminal (General).

An applicant must satisfy the Corporation that the roster member is familiar with

- the resources available for youth in the district or specified part of a district for which the roster member has been authorized under section R4 of these Rules; and
- the Justice for Children and Youth website.

Roster members must review the material enumerated in the document entitled “Material for review by roster members authorized to provide legal aid services in Criminal Youth” and attest they have reviewed same.

Criminal Mental Health Matters

- Criminal Mental Health matters are the following:
- Proceedings in mental health court
- fitness hearings
- Ontario Review Board (ORB) proceedings
- Not Criminally Responsible (NCR) proceedings
- Amicus appointments
- Assignments of counsel where an individual seeking legal aid services cannot complete application for legal aid due to mental illness

To be authorized to provide legal aid services with respect Criminal Health Matters to persons with

serious mental health issues and in related criminal proceedings including mental health court, fitness hearings, Ontario Review Board (ORB) proceedings, and Not Criminally Responsible (NCR) proceedings.

To be authorized to provide legal aid services with respect Criminal Health Matters roster member must be authorized to provide legal aid services under Criminal (General).

Minimum Experience

1. a minimum of five completed ORB proceedings within the last four year before seeking authorization; or,
2. a minimum of a combination of completing at least two of the three following types of proceedings, totaling at least five, within the last four years before seeking authorization:
 - Fitness Hearings (with expert evidence or report);
 - NCR hearings;
 - a criminal proceeding for which a mental health block under the Payments Schedule was approved.
3. Review the material enumerated in the document entitled “Material for review by roster members authorized to provide legal aid services in Criminal Mental Health” and attest they have reviewed same.

Family Law and Child Protection Law

Before being authorized to provide legal aid services for proceedings under the CYFSA, the roster member must be authorized to provide legal aid services under Family Law.

Minimum Experience: Family Law authorization

The following minimum experience is required, which must have been completed within the last year before seeking authorization:

1. substantial involvement in a minimum of 10 family law proceedings, including matters of decision-making responsibility, parenting time or extended society care, child and spousal support, property and divorce;
2. participation in a minimum of three of any of the following:
 - case conference,
 - contested motion,
 - settlement conference,
 - trial management conference,
 - summary judgment motion,

- focused hearing, trial,
 - arbitration or appeal;
3. participation in a minimum of three of any of the following consensual dispute resolution processes, at least one of which achieved resolution:
- mediation, negotiation or a separation agreement,
 - arbitration,
 - a Legal Aid settlement conference, or
 - a collaborative family law process.

Roster members must review the material enumerated in the document entitled “Material for review by roster members authorized to provide legal aid services in Family Law” and attest they have reviewed same.

Minimum Experience: CYFSA

Substantial involvement in a minimum of 15 CYFSA proceedings must have been completed within the last 3 years before seeking authorization, either representing parents, or as counsel for

- the Office of the Children’s Lawyer, or
- the Children’s Aid Society.

Refugee and Immigration (General)

For all refugee and immigration services, with the exception of the services under the Refugee and Immigration (Appellate) authorization.

Minimum Experience

To be authorized to provide Refugee and Immigration (General) services, roster members must have completed 10 or more, or any combination of the following matters, within the last two years before seeking authorization:

- Completion of 10 Basis of Claim Forms
- Refugee Protection Division hearings
- Pre-Removal Risk Assessment (PRRA) submissions
- Danger Opinion submissions
- Refugee Appeal Division appeals
- Perfected Federal Court Applications for Leave and for Judicial Review of Refugee Protection Division (RPD), Refugee Appeal Division (RAD), PRRA or Danger Opinion decisions
- Federal Court motions to stay removal
- Federal Court judicial review hearings in respect of RPD, RAD, PRRA or Danger Opinion

decisions

- Appeals before the Federal Court of Appeal in respect of a refugee or immigration law matter.

Roster members must review the material enumerated in the document entitled “Material for review by roster members authorized to provide legal aid services in Refugee and Immigration (General)” and attest they have reviewed same.

Refugee and Immigration (Appellate)

The services under this authorization are as follows:

- Appeals before the Refugee Appeal Division
- Judicial Reviews before the Federal Court
- Appeals before the Federal Court of Appeal
- Appeals before the Supreme Court of Canada
- Applications before the Superior Court for a writ of habeas corpus
- Applications to Canada Border Services Agency (CBSA) for a deferral of removal and motions for a stay of removal before Federal Court

Minimum Experience

Ten or more, or any combination of the following services, must have been completed within the last two years before seeking authorization:

- Refugee Appeal Division appeals;
- Perfected Federal Court Applications for Leave and for Judicial Review of RPD, RAD, PRRA or Danger Opinion decisions;
- Federal Court motions to stay removal;
- Federal Court judicial review hearings in respect of RPD, RAD, PRRA or Danger Opinion decisions
- Appeals before the Federal Court of Appeal in respect of refugee/immigration law matters.

Roster members must review the material enumerated in the document entitled “Material for review by roster members authorized to provide legal aid services in Refugee and Immigration (Appellate)” and attest they have reviewed same.

Consent and Capacity Law

Minimum Experience

A minimum of three retainers for Consent and Capacity Board proceedings within the last two years before seeking authorization.

An applicant to the CCB panel must have observed at least one CCB hearing prior to appearing

before the CCB for a LAO client.

Per Diem Duty Counsel

A. Criminal Court Adult and Criminal Court Youth Duty Counsel

The following minimum experience is required:

- The completion of a minimum of three contested judicial interim release hearings.
- The completion of a minimum of three guilty pleas or criminal trials.
- The completion of a minimum of three criminal sentencing hearings.
- The completion of six hours of CPD in criminal law.

B. Family Court Duty Counsel and Advice Lawyer - Family Law Information Centre (FLIC)

The following minimum experience is required:

- Representation at a minimum of two family law trials or contested family law matters;
- Representation at a minimum of two child protection hearings;
- Representation at a minimum of two Family Responsibility and Support Arrears Enforcement Act enforcement proceedings;
- The preparation of a minimum of two family law applications & pleadings;
- Representation at a minimum of two family law motions without notice under the applicable Rules, in situations of urgency or hardship, or involving immediate danger;
- The completion of six hours of CPD in family law.

Duty counsel – Advice lawyer minimum experience requirements

The following are the Corporation's requirements for authorization to provide legal aid services in the following areas of law

Advice lawyer–domestic abuse

To be authorized to provide services as an advice lawyer-domestic abuse, a lawyer must:

1. be authorized to provide family law certificate services;
2. attend or view domestic abuse training courses provided by or approved by the Corporation LAO, as required by the Corporation.

Advice lawyer–correctional institutions

To be authorized to provide services as advice lawyer-correctional institutions, a lawyer must be authorized to provide certificate criminal law services.

Advice lawyer–refugee and immigration

To be authorized to provide services as an advice lawyer-refugee and immigration, a lawyer must be authorized to provide certificate refugee and immigration law services.

Advice lawyer–mental health

To be authorized to provide services as advice lawyer-mental health, a lawyer must:

- have demonstrated familiarity with the relevant mental health legislation to the satisfaction of the Corporation; and
- on at least 4 occasions, shadow a lawyer who is authorized to provide advice lawyer-mental health services and is experienced in mental health services law.

APPENDIX

Extremely Serious Criminal Matters offences

Criminal Code Section	Offence
235	Murder
465(1)(a)	Conspiracy to Murder
220(a)	Criminal Negligence Causing Death (Firearm)
236(a)	Manslaughter (Firearm)
239(a)	Attempt Murder (Firearm)
244	Causing Bodily Harm with Intent (Firearm)
272(2)(a)	Sexual Assault (Firearm)
273(2)(a)	Aggravated Sexual Assault (Firearm)
279(1.1)(a)	Kidnapping (Firearm)
279.1(2)(a)	Hostage-taking (Firearm)
344(a)	Robbery (Firearm)
346(1.1)	Extortion (Firearm)
83.2	Commission of Offence for Terrorist Group
83.21	Instruct to Carry out Activity for Terrorist Group
83.22	Instruct to Carry out Terrorist Activity