

CERTIFIED SPECIALIST PROGRAM

Standards for Certification

Family Law

Definition of Family Law Specialty

1. The practice of family law deals with all aspects of domestic relationships within or outside marriage, such as cohabitation, separation and divorce, custody, access, child protection, adoption, child support, spousal support, property issues and domestic contracts.

Designation

2. An applicant who is certified as a specialist in family law may be identified as a *Certified Specialist (Family Law)*.

Achieving Specialist Certification in Family Law

3. Applicants must comply with the requirements for certification set out in the Policies Governing the Law Society's Certified Specialist Program ("Policies"), particularly those relating to:
 - Minimum Years of Practice and Recent Experience;
 - Substantial Involvement in the Specialty Area;
 - References;
 - Professional Standards; and
 - Application Fee.
4. Applicants must satisfy the following requirements in order to demonstrate their substantial involvement in family law. During the 5 years of recent experience applicants must have:
 - (a) devoted a minimum of 30% of practice concentration in family law; and
 - (b) attained broad and varied experience and a mastery of substantive law and procedures in the area, and complied with the Family Law Experience requirements below.
5. In the event that applicants do not entirely meet the experience requirements, they may apply to Society for consideration of their individual circumstances or their related (non-practice) skills. Consideration will be given in exceptional circumstances where applicants have:
 - (a) limited their practice in recent years to a particular area of family law or have been involved in matters of extraordinary length and complexity; or
 - (b) engaged in advanced course work or performed related activities such as teaching, authoring books or articles for publication, completing post-graduate or other studies, participating in the development and/or presentation of professional development programs, research, participating in the policy development process, drafting legislation and/or instruments, participating as active members on boards or tribunals, or on the executive of any organization related to family law or any other experience that applicants consider relevant to their application.

Applicants applying for consideration under this paragraph must, in addition to the brief description of their practice required pursuant to paragraph 6, include with their application

- (c) a detailed description of their individual circumstances or related (non-practice) skills; and
 - (d) references from the institutions or organizations from which their experience is drawn, references from peers, samples of writing and/or research, and a complete list of publications.
6. All applicants must include a brief description (no more than 100 words) of the nature of their practice in relation to the specialty area.

Family Law Experience

7. During the 5 years of recent experience the applicant must have:
 - (a) had carriage of at least 15 complex matters of substance, at least some of which were resolved after a court proceeding was commenced or through arbitration. The applicant must provide case analyses for 10 matters in accordance with paragraph 10 below.
 - (b) advised clients with respect to the type and number of issues/matters delineated in each of the 5 categories listed below at paragraph 8.
 - (c) had experience in the use of alternative dispute mechanisms listed below in paragraph 9.
8. Applicants are asked to place a check mark (✓) next to the applicable issues/matters in each of the 5 categories below to confirm compliance with paragraph 7(b) and include the Standards with their application package, along with their case/matter analysis and any other supplementary information required in the Standards.

Category 1: Custody, Access, Matters under the *Child, Youth and Family Services Act*, Child Protection and Adoption (17 of the following 29 issues/matters)

clinical assessments or expert opinion from mental health professionals about contested or high conflict parenting issues, children's needs and parenting capacity
 clinical assessments or expert opinions from physicians or mental health professionals relating to children and / or parents who are involved in child protection proceedings
 the impact of adversity, including inter-parental conflict, on children's healthy development
 legal representation of children, including proceedings where Voice of the Child Reports are utilized
 sole custody
 joint custody
 alternate custody arrangements
 access, including requests for no access, frequency requests, supervised access, suspension of access and the termination of access
 temporary care agreement (*Child, Youth and Family Services Act*, 2017, S.O. 2017, c.14 Sched. 1)
 special needs agreement (*Child, Youth and Family Services Act*, 2017, S.O. 2017, c.14 Sched. 1)
 apprehension warrant (*Child, Youth and Family Services Act*, 2017, S.O. 2017, c.14 Sched. 1)
 society wardship (*Child, Youth and Family Services Act*, 2017, S.O. 2017, c.14 Sched. 1)
 crown wardship (*Child, Youth and Family Services Act*, 2017, S.O. 2017, c.14 Sched. 1)
 status review application (*Child, Youth and Family Services Act*, 2017, S.O. 2017, c.14 Sched. 1)
 child's admission to a secure treatment program (*Child, Youth and Family Services Act*, 2017, S.O. 2017, c.14 Sched. 1)
 adoption proceedings (*Child, Youth and Family Services Act*, 2017, S.O. 2017, c.14 Sched. 1)
 residential schedules for children of various ages and stage of development
 mobility issues
 mental/physical abuse of a party or child
 parenting abilities
 parenting arrangement for children and adult children with special needs
 cases involving domestic violence, abuse and power imbalances between parties
 non-removal orders
 withholding, apprehension or abduction of a child
 parenting dispute
 appeals relating to custody, access
 appeals relating to child protection orders, society wardship, crown wardship, child's admission to secure treatment program, adoptions
 Hague Convention proceedings

Category 2: Child Support (12 of the following 19 issues/matters)

definition of parent
 split custody
 shared custody

entitlement to custody
child support guidelines, including application of the guidelines in contexts of shared custody, split custody and determining table support and section 7 expenses,
determining child support guideline income
imputing income to a child support payor or to a recipient of child support
incomes over \$150,000
support for children over the age of majority, children with special needs or in cases of child estrangement
child support obligations for those who stand in place of parent or impact of second income
child benefits, credits and tax deductions
undue hardship
financial disclosure
varying child support orders
child support provisions in domestic contract including variation and setting aside
security for child support obligations
orders for payment (Child, Youth and Family Services Act, 2017, S.O. 2017, c.14 Sched. 1)
enforcing child support obligations within Canada
enforcing child support obligations outside Canada

Category 3: Spousal Support (16 of the following 20 issues/matters)

opinions from experts regarding the determination of income and other financial issues
determining entitlement
lump sum support awards
periodic awards including time-limited, indeterminate and reviewable awards
limitation period under the *Family Law Act*
mutual spousal support releases, including suitability, enforceability and setting aside
application of Spousal Support Advisory Guidelines, including restructuring and exceptions
need and ability to pay
determination of income
financial disclosure
security for spousal support
enforcing the terms of a marriage contract or cohabitation agreement with respect to spousal support
setting aside the terms of a marriage contract or cohabitation agreement with respect to spousal support
varying spousal support provision in a court order
varying spousal support provisions in a domestic contract
imputing of income to a support payor or to a recipient of spousal support
spousal support provisions in domestic contract, including variation and setting aside
taxation, including deductibility and inclusion of support payments under the *Income Tax Act (Canada)* and, where applicable, tax laws of jurisdictions outside Canada
enforcing spousal support rights within Canada
enforcing spousal support rights outside Canada

Category 4: Property (21 of the following 27 issues/matters)

defining property
property rights for married parties – Part I of the *Family Law Act*
using experts to valuation and appraisal of assets, including real estate, pensions, corporate interests, stock options and other conditional assets and trust interests
using experts to value debts and liabilities, including income tax liability
financial disclosure
trusts, e.g. resulting trust, constructive trust, unjust enrichment
disposition costs
excluded property – tracing issues

- limitation periods, including post separation and/or post death
- preservation of property
- certificate pending litigation
- non-dissipation orders
- quantification of net family property and calculation of equalization payments
- security for an equalization payment
- pre-judgment interest
- exclusive possession of matrimonial home
- sale of matrimonial home
- claims for unequal division of property
- property division between common law couples
- excluded property
- occupation rent
- determination of ownership and beneficial interest in business and other assets
- determination of liabilities
- enforcing the terms of a marriage contract relating to property rights
- setting aside the terms of a marriage contract relating to property rights
- taxation
- estate issues

Category 5: Cohabitation, Marriage and Divorce (11 of the following 15 issues/matters)

- jurisdiction
- capacity to separate or divorce
- grounds for divorce
- grounds for denying a divorce order
- severance of a divorce from corollary proceedings
- validity or recognition of foreign divorce
- entitlement and capacity to marry
- the terms of a cohabitation agreement, including drafting a cohabitation agreement
- the terms of a marriage contract, including drafting a marriage contract
- the terms of a separation agreement, including drafting a separation agreement
- the terms of a paternity agreement, including drafting a paternity agreement
- enforcing family arbitration agreements, cohabitation agreements, separation agreements or marriage contracts
- setting aside family arbitration agreements, cohabitation agreements, separation agreements or marriage contracts
- varying separation agreements
- estate issues

Family Dispute Resolution Processes

9. Applicants are asked to identify the family law dispute resolution processes to which they refer clients, in which they participate with client about which they have informed clients and / or which they have facilitated:

- client-based mediation
- lawyer-assisted mediation
- multi-party mediation
- circle mediation involving child protection issues and multiple parties
- mediation relating to child protection issues
- voice of the child disclosure meeting
- mediation-arbitration
- secondary arbitration
- family arbitration
- parenting coordination
- formal court proceedings

Arbitration Act, 1991 and Ontario Regulations 134/07 requirements for independent legal advice and screening for domestic violence, abuse of power imbalances prior to the commencement of some dispute resolution processes

Case/Matter Analysis

10. Applicants must provide case/matter analyses for 10 cases or matters which demonstrate the applicant's broad and varied experience and a mastery of substantive law and procedures in family law. Information must be presented in a manner consistent with the ethical obligation of confidentiality.
11. Each case description must include the following information, as applicable:
 - (a) issues involved in case or matter
 - (b) complexity of the case or matter
 - (c) who represented (husband, wife, child, etc.)
 - (d) the type of proceeding, litigation, mediation, alternative dispute resolution
 - (e) synopsis of how case/matter was resolved, and if resolved by domestic contract or minutes of settlement, provide copies of the settlement document, blocking out information identifying clients or opposing parties
 - (f) Citation, if available (reported or unreported)
 - (g) location of hearing and specifically rules of court or procedure used
 - (h) name of other lawyers involved or if other side is unrepresented
 - (i) name of judge or mediator or arbitrator
 - (j) name of forum, court, tribunal
 - (k) date case heard during main proceeding (trial, application, hearing, ADR conference, etc.)
 - (l) length of time it took to resolve case during main proceeding
 - (m) appeal of any decision

References

12. Applicants must submit 4 references from legal practitioners eligible to practise law in Ontario who have direct knowledge of the applicant's work in the specialty area in the 5 years of the applicant's recent experience and can attest to the applicant's competence performance of the tasks outlined under Family Law Experience. Applicants must provide to the referees a copy of the completed Standards to let them know which categories they have selected to demonstrate their experience.
13. Applicants should not include as reference: judges, partners, associates, co-workers, employers, employees, relatives, 3rd party neutrals, members of the Certified Specialist Board, benchers or employees of the Law Society.
14. The Statements of Reference must be submitted directly to the Law Society Certified Specialist Program via email to: certspec@lso.on.ca (*preferred method*), or via mail to: 130 Queen St W., Toronto ON, M5H 2N6.

Application Assessment

15. The Society will consider the totality of an applicant's practice in family law, the applicant's professional development report and references.
16. Applicants should not assume that completion of all of the enumerated practice concentration and experience requirements will automatically entitle them to certification as a specialist.
17. Applicants may be required to provide additional information to the Society to facilitate the assessment process.
18. The Society may make discreet inquiries, as it deems appropriate, to determine the applicant's eligibility and suitability for certification as a specialist.