



## CERTIFIED SPECIALIST PROGRAM

### Standards for Certification

## Citizenship and immigration law

(Immigration / Refugee Protection)

### Definition of Citizenship and Immigration Law Specialty

1. The practice of Citizenship and Immigration Law is the practice of law relating to all aspects of Immigration and Refugee Protection.
2. The practice of Refugee Protection Law encompasses all refugee determination matters arising out of the Immigration and Refugee Protection Act, 2002, and Regulations, in particular Part II of the Act, eligibility and admissibility, detention and release, review and appellate remedies including the application of the Charter of Rights and Freedoms, the Bill of Rights and International Conventions.
3. The practice of Immigration Law encompasses all other matters, arising out of the Immigration and Refugee Protection Act, 2002 and Regulations, the Citizenship Act and Regulations, and related Statutes including matters involving temporary entry to Canada, permanent entry, enforcement, citizenship, review and appellate remedies, including the application of the Charter of Rights and Freedoms and Bill of Rights.

### Designation

4. An applicant who is certified as a specialist in Immigration Law may be identified as a Certified Specialist (Citizenship and Immigration Law: Immigration).
5. An applicant who is certified as a specialist in Refugee Protection Law may be identified as a Certified Specialist (Citizenship and Immigration Law: Refugee Protection).
6. An applicant who is certified as a specialist in Immigration Law and Refugee Protection Law may be identified as a Certified Specialist (Citizenship and Immigration Law: Immigration/Refugee Protection).

### Achieving Specialist Certification in Citizenship and Immigration Law

7. Applicants must comply with the requirements for certification set out in 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;
  - Professional Development;
  - References;
  - Professional Standards; and
  - Application Fee.
8. Applicants must satisfy the following requirements in order to demonstrate their substantial involvement in immigration and/or refugee protection law:
  - (a) averaged over the 5 years of their recent experience applicants will have devoted a minimum of 30% of their practice concentration to refugee protection or to immigration law; or 60% of their practice concentration to refugee protection and immigration law if applying for certification in both areas; and
  - (b) during the 5 years of their recent experience applicants will have attained broad and varied experience and mastery` of substantive law, practices and procedures in immigration and/or refugee protection law and comply with the applicable experience requirements set out below.

9. In the event that applicants do not entirely meet the experience requirements, they may apply to the Society for consideration of their individual circumstances or their related (non-practice) skills. Consideration will be given in circumstances where applicants have:
- (a) limited their practice in recent years to a particular area of citizenship and immigration 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 citizenship and immigration 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 10, 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.
10. All applicants must include a brief description (no more than 100 words) of the nature of their practice in relation to the area(s) for which application is made.

## **Citizenship and Immigration Law Experience**

11. During the 5 years of their recent experience applicants must have complied with the experience requirements for the applicable area(s).
12. Applicants are asked to place a check mark (✓) next to the tasks they are selecting from the Refugee Protection Law Experience and/or Immigration Law Experience categories below to demonstrate their experience and include the Standards with their application package, along with any supplementary information required in the Standards.

### **(a) Refugee Protection Law Experience**

13. Applicants must have performed all the tasks in Category 1 and all the tasks in any 3 of Categories 2, 3, 4, 5 or 6. In the alternative, applicants may request consideration by the Society under paragraph 9 above.

#### **Category 1: Applications for Protected Status**

Advised clients or prospective clients as to following:

- at least 20 Eligibility matters;
- at least 100 Refugee matters; and
- at least 20 Rejected Refugee Claimants

Prepared and filed at least 100 Personal Information Forms

Appeared in at least 100 Refugee Hearings before the Immigration and Refugee Board

#### **Category 2: Applications for Judicial Review**

Advised clients or prospective clients as to Applications for Judicial Review which involved the following:

- at least 10 Applications for Leave and Judicial Review; and

at least 10 opinions on the merits of further proceedings

Perfecting the Application for Leave and Judicial Review in the Federal Court in at least 10 matters based on the assessments described above

**Category 3: Applications Pursuant to PRRA or PDRCC**

Advised clients or prospective clients on at least 25 post refugee reviews either under PDRCC or PRRA

Processed at least 10 such applications

**Category 4: Detention and Release**

Advised clients or prospective clients on at least 20 Detention and Release matters of persons seeking Refugee Protection and their prospect of success.

Attended at least 10 hearings before the Immigration Division in respect to these matters

**Category 5: Extraordinary Remedies and Humanitarian & Compassionate Relief**

Advised clients or prospective clients on:

at least 5 matters involving Stays of Deportation or Removal

at least 10 Humanitarian and Compassionate applications

Prepared at least 10 Applications in either of the above.

**Optional**

Indicate the number of times the applicant has appeared before the International Tribunal over the course of the applicant's practice (and not the 5 years of recent experience).

**Category 6: Miscellaneous Applications**

Because these matters are relatively rare, please advise if the applicant has any knowledge or expertise advising clients or prospective clients on matters involving:

consideration by the Minister or issuance of a certificate under s. 77 of the I.P.R.A

moving by the Minister to Vacate Protected Status

exclusions

reopening or reinstatement of refugee claims

**(b) Immigration Law Experience**

14. Applicants must have performed all the tasks in any 4 of the 7 Categories below. In the alternative, applicants may request consideration by the Society under paragraph 9 above.
15. Applicants are asked to place a check mark (✓) next to the tasks they are selecting from the categories below to demonstrate their Immigration Law Experience.

**Category 1: Applications for Permanent Residents:**

Advised clients or prospective clients as to the assessment of their prospects to attain immigration status for:

at least 100 Skilled Workers matters;

at least 30 Family Class and Spouse in Canada Sponsorship matters; and

at least 10 Business Class matters.

Filed at least 75 applications based on the assessments described above for:  
at least 40 Skilled Workers matters;  
at least 20 Family Class and Spouse in Canada Sponsorship matters; and  
at least 10 Business Class matters

**Category 2: Applications for Temporary Entry**

Advised clients or prospective clients as to acquisition of temporary status as a Foreign Worker/Foreign National issued a Work Permit, Foreign Student/Foreign National issued a Study Permit, Visitor /Foreign National status, Discretionary Entry which involved the following:

Assessment of their prospects to obtain temporary status as a Worker, Student or Visitor including Employment Authorizations/Work Permit matters of which at least:

25 were employment validation or labour market opinion matters; and

25 were validation exempt matters: GATS, NAFTA or exemptions provided under the former *Immigration Act or the Immigration and Refugee Protection Act and Regulations*.

At least 50 applications relating to issues concerning entitlement to status as a Visitor or a Foreign Student including extensions of such status. (Where applicable, visitor issues may be counted separated notwithstanding that such issues formed part of an assessment relating to status as a Foreign Worker, Foreign Student.)

Filed at least 50 applications based on the assessments described above.

**Category 3: Applications for Entry in Circumstances of Inadmissibility**

Advised clients or prospective clients as to their prospects of admissibility, including:

at least 5 matters relating to medical inadmissibility,

at least 5 matters relating to criminal inadmissibility; and

at least 5 matters relating to other form of inadmissibility.

**Category 4: Applications for Humanitarian and Compassionate Relief and Discretionary Relief**

Advised clients or prospective clients on at least 50 matters consisting of an assessment of the prospects of success in the acquisition of humanitarian and compassionate relief or discretionary determinations (i.e. Positive Discretion / Substituted Opinion) and Ministers Permits / Temporary Resident Permits.

Filed at least 20 applications based on assessments described above.

**Category 5: Applications for Appellate or Judicial Relief**

Advised clients or prospective clients on matters involving Immigration and Refugee Board Appeals or Applications for Judicial Review which involved the following:

Advising clients or prospective clients as to the assessment of their prospects for success, including:

At least 20 Immigration and Refugee Board matters, and

At least 20 Federal Court of Canada matters.

Perfecting the Application for Leave and for Judicial Review in the Federal Court, appeared before the Federal Court or provincial Superior Court on any Immigration matter and/or appeared before the Immigration Appeal Division on an appeal, in at least 20 matters based on the assessments above.

### **Category 6: Applications for Maintaining or Reinstating Permanent Resident Status and Canadian Citizenship**

Advise clients or prospective clients on at least 25 matters involving maintaining or reinstating Permanent Resident Status or obtaining Canadian citizenship which involved providing strategic advice to clients or prospective clients as to the assessment of their prospects for maintaining their permanent resident status or obtaining Canadian citizenship.

### **Category 7: Danger Opinions, Inquiries, Stay of Removal and Detention Reviews**

Please advise if the applicant has any knowledge or expertise in advising clients or prospective clients, including any representations made to authorities as solicitor of record, on matters involving:

- a possible opinion by the Minister that an individual constitutes a danger to the public in Canada;
- inquiries regarding matters such as deportation and removal, misrepresentation, breach of terms and conditions of entry or landing, and/or loss of status;
- applications in the Federal Court for a stay of removal; and/or
- detention reviews

## **Professional Development**

16. Applicants must attest to the completion of the professional development requirements.

The requirements are:

- (a) not less than 50 hours of self-study; and
- (b) not less than 12 hours of relevant professional development, in the two years immediately preceding the date of application date and any other year within the five years of recent experience.

The 12 hour professional development requirement may be met through participation at CLE programs or through alternative methods such as, but not limited to:

- (c) teaching or being guest lecturer on a course in the specialty area;
- (d) writing and editing of published books or articles relating to the specialty area;
- (e) graduate or post-graduate studies in the specialty area;
- (f) involvement in the development and/or presentation of professional development programs related to the specialty area;
- (g) involvement in the development of policy related to the specialty area.

## **References**

- 17. 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 5 years of the applicant's recent experience and can attest to the applicant's competent performance of the tasks outlined under Refugee Protection Law Experience and/or Immigration Law Experience. Applicants must provide to their referees a completed copy of these Standards in order to let them know which categories they have selected to demonstrate their experience.
- 18. 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.

19. The Statements of Reference must be submitted with the application to the Law Society in confidential envelopes which have been sealed, signed and dated by the referees. Envelopes which have been opened or appear to have been tampered with will not be accepted.

### **Application Assessment**

20. The Society will consider the totality of an applicant's practice in immigration and/or refugee protection law, the applicant's Professional Development Report and references.
21. 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.
22. Applicants may be required to provide additional information to the Society to facilitate the assessment process.
23. The Society may make discreet inquiries, as it deems appropriate, to determine the applicant's eligibility and suitability for certification as a specialist.

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