



Roster Lawyer

WELCOME HANDBOOK

JANUARY 2023



Welcome to Legal Aid Alberta!

It is wonderful to welcome new faces to our talented pool of roster lawyers. Roster lawyers are an integral part of Legal Aid Alberta (LAA) and are pivotal to helping LAA protect Albertan’s legal rights in the criminal justice system.

Our mission is to provide legal services and expertise to individuals and the legal community to support fairness in the justice system. As part of that mission, we rely on roster lawyers to provide a large proportion of these legal services.

We have put together a welcome package to assist you in navigating LAA’s administrative policies, certificates, procedure, and tariffs. We hope this will address any questions or concerns you may have regarding your Legal Aid certificates.

Table of Contents

Welcome to Legal Aid Alberta!.....	1
Overview of Legal Aid.....	6
What is LAA’s mandate and role?.....	6
What does LAA do?.....	6
How are LAA’s services delivered?.....	6
What is Legal Aid’s Vision, Mission, and Values?.....	7
Qualifying for LAA.....	8
How do people qualify for LAA?.....	8
Financial Eligibility Guidelines.....	8
Service Eligibility Guidelines.....	9
Service Eligibility for Criminal Matters.....	9
Service Eligibility – Family Law Matters.....	10
Service Eligibility – Civil Law Matters.....	11
Can the decision to be refused legal representation services be appealed?.....	11
Roster Lawyers.....	12
What is my role as a roster lawyer?.....	12
What is an LAA roster panel?.....	12
How do I become a member of a roster panel?.....	12
Can I be suspended or terminated as a roster lawyer?.....	13
How long will I be suspended from the LAA roster?.....	13
Types of Certificates.....	14
(a) Duty counsel certificates.....	14



(b) Client-based certificates:.....	14
Client-Based Representation Certificates.....	15
How are lawyers selected for certificates?.....	15
How do I accept an offer for a certificate?.....	16
Why was my offer rescinded?.....	16
Can I receive offers only for specified geographic locations?.....	16
Can another lawyer appear on a certificate if it is in my name?.....	16
In what circumstances can I allow another lawyer to appear on my certificate?.....	16
What are the requirements for delegating work to a second lawyer?.....	17
Are there conditions on the Certificate?.....	18
What are the consequences for failing to comply with the conditions on the Certificate?.....	18
What are the lawyer’s obligations to the client in relation to the Certificate?.....	18
How does LAA decide whether to grant a change of counsel?.....	18
What are my obligations to LAA when a request for change of counsel is made?.....	19
What is a High-Cost case?.....	19
How will I know if my case will qualify for the High-Cost Case Management Program?.....	20
What are my obligations under the High-Cost Case Management Program?.....	20
What is the High-Cost Case Committee?.....	20
What matters get put before the High-Cost Case Committee?.....	20
Can a Roster Lawyer act as Court-Ordered Counsel?.....	20
Opinion Certificates.....	21
Writing Opinions for Appeals.....	21
What is required for a merit opinion?.....	21
Criminal Appeals.....	22
SCC Leave Applications.....	22
Mental Health Appeals.....	22
Family Appeals.....	22
Immigration Appeals.....	22
Limited-Hours and Appropriate-Hours Certificates.....	23
Bail Only Certificates.....	23
Appeal Certificates.....	23
Drug Treatment Court.....	23
Complainant’s Counsel Certificates (Duty Counsel for Complainants on 276 Applications, etc.).....	24
FAQ-Certificates.....	24
General Inquiries.....	24



Billing and Invoicing.....	25
What are LAA’s rules for billing?.....	25
Lawyer May Not Accept Additional Payments for Certificate Services.....	25
Retainer Agreements	25
No Referral or Transfer Fees.....	26
A lawyer who has previously acted for a client on a certificate:.....	26
Lawyer Must File Bail Assignment in Favour of LAA.....	26
Rationale for Requiring Clients to Pay Money to Lawyer for LAA’s Benefit	26
Use of Costs, Settlements, etc. to Cover Client Accounts (and Exceptions).....	26
Transferring Funds to LAA to Cover Client Fees & Remitting the Balance to the Client.....	27
LAA Does Not Accept Trust Funds.....	27
Lawyer Must Help Implement Security Agreement.....	27
Lawyers Must Seek Guidance when they Cannot Comply with these Rules.....	27
Will my accounts be reviewed?.....	28
What are my responsibilities for ensuring my accounts are accurate and complete?	29
Lawyers Must Keep Time Records, Appearance Records, and Disbursement Records.....	29
Lawyers Issued Certificates are Responsible for Other Lawyers’ Records.....	29
Lawyers Must Keep Records for Four Years from Final Invoice	29
Accounts Submitted via Lawyer Portal Only.....	29
Interim Accounts	30
Final Accounts and Deadline for Submitting Final Accounts	30
Can I fix errors to an invoice once it has been submitted?	30
Am I required to attach supporting documents to my invoice?.....	30
Does LAA complete audits on accounts?	31
LAA may initiate a compliance review:.....	31
LAA may initiate a compliance review:.....	31
What are my obligations when a compliance review is conducted?	31
What factors are considered on review of an account?.....	31
What will occur after a compliance review has been completed?	32
What will happen if I do not comply with a compliance review?	32
Administrative Reviews.....	33
Can I request an administrative review of LAA’s decisions?.....	33
What is the process for initiating an administrative review?	33
Case Management Decisions.....	34
CONTACTS.....	35



Final Note.....	35
PART 2:	36
Appendix A: The Legal Aid Tariff.....	37
Opinion Certificates.....	37
Family/Civil Certificates	37
Administrative Law Certificates.....	39
Civil Appeal Certificates	40
Mental Health Certificates.....	41
Criminal Certificates	41
How are offences categorized?	41
Criminal Appeal Certificates	47
Extra Tariff Items -Civil and Criminal.....	48
Family Certificates:.....	52
Child Welfare Certificates:	53
Children’s Counsel.....	53
Immigration Certificates:.....	54
Mental Health Certificates:.....	54
Additional information:	54
Retroactive Authorization Requests	55
Exceptions – Retroactive Authorization Requests.....	55
LAA may approve a retroactive Authorization Request if:.....	55
Discretionary Case Collapse Fees	56
Second Counsel Only Authorized in Exceptional Circumstances.....	56
Ordinary Disbursements.....	57
Special Disbursements-Regular Certificate Matters	59
Appendix B: Reference Chart for request reasons and supporting documentation required for Authorization Requests.....	62
Criminal Certificates	62
Immigration Certificates.....	64
Mental Health Certificates	65
Family Certificates.....	65
Child Welfare Certificates	66
Children’s Counsel Certificates	67
Appendix C: FAQ Tariffs and Disbursements.....	67
7.04-Additional Hours-Criminal	67



High-Cost.....	69
Special Disbursements	69
Ordinary Disbursements.....	70
Appendix D – Administrative Policies.....	72
Administrative Policy 5.....	72
Part 1 – General Principles that Apply to Certificates.....	89
Part 2 – Selecting Lawyers for Cases & Changing Lawyers	95
Part 3 – Discretionary Authorizations.....	99
Part 4 – Rules Surrounding Billing and Invoicing.....	105
Part 5 – Specific Rules for Certain Types of Certificates.....	108
Part 6 – Lawyers’ Accounts and Review of Accounts	110
Part 7 – Administrative Review of Decisions	117
Administrative Policy 6.....	120
Part 1 – General.....	120
Part 2 – Panels.....	138
Part 3 – Quality-of-Service Reviews	141
Part 4 – Suspending or Ending Roster or Panel Membership	146
Part 5 – Appealing Decisions Related to Roster and Panel Membership.....	149
Part 6 – Transitional.....	153



Overview of Legal Aid

What is LAA's mandate and role?

LAA is an independent organization that is accountable to the Minister and Law Society of Alberta for the operation of LAA and the Legal Aid Plan. It provides essential legal services for eligible Albertans to ensure access to justice. It advances the public interest by helping people resolve their legal problems through a cost-effective, innovative, and flexible program within an affordable funding envelope.

A board of directors is appointed by the LSA to supervise and direct the management of LAA in accordance with sound governance practices and establish required policies.

LAA has flexibility in delivering legal services through a hybrid staff/roster lawyer model in a cost-effective, innovative, and flexible manner. The legal aid services are described in Appendix II of the Governance Agreement which can be found on LAA's website.

Removal of a service requires at least 12 months written notice from the Minister, with exceptions, including some of the services funded pursuant to a federal/provincial cost sharing agreement.

What does LAA do?

LAA has 300 staff members and 1200 private practice roster lawyers acting for LAA. We provide legal representation services in the areas of civil, family, and criminal law needs along with other matters specified in LAA rules. The other matters include:

- (a) immigration and refugee claims.
- (b) Adult Guardianship and Trusteeship matters, where the client is the person subject to or potentially subject to guardianship or trusteeship and;
- (c) other civil law matters that Legal Aid Alberta includes from time to time, through a Board Policy and approved in accordance with the Governance Agreement.
- (d) Duty Counsel services.

The scope of legal services provided by Legal Aid Alberta may change from time to time and may include:

- (a) any or all legal representation services,
- (b) early resolution services,
- (c) limited scope services,
- (d) full representation services, and

How are LAA's services delivered?

LAA provides services in various ways. These include:

- (a) in person at the Legal Services Centre, staff law offices, courthouses, and other locations.
- (b) by telephone, videoconferencing or over the Internet; and



- (c) using other technology as it thinks appropriate.

In addition, LAA may use:

- (a) private bar lawyers who are placed on a roster.
- (b) private bar lawyers who have agreed by contract to provide legal services for it; and
- (c) staff lawyers and non-lawyers

What is Legal Aid's Vision, Mission, and Values?

As a new member of our roster, it is important to understand Legal Aid's vision, mission, and values. These are:

Vision: An Alberta where everyone is able to understand and protect their legal rights.

Mission: We provide legal services and expertise to individuals and the legal community to support fairness in the justice system.

Values: We are one, we are protectors, we are exceptional, we are independent.



Qualifying for LAA

How do people qualify for LAA?

A client must meet all Legal Aid Alberta's eligibility guidelines which apply to the client and the client's matter to:

- (a) receive legal representation services; and
- (b) to continue receiving legal representation services.

Service and Financial eligibility guidelines for Legal Aid Alberta are established by the LAA Rules. Service Eligibility Guidelines describe the types of law and legal issues for which legal representation services may be provided. Financial Eligibility Guidelines describe the levels of income and assets that a client can have.

Financial Eligibility Guidelines

It is important to note that a client does not need to meet the Financial Eligibility Guidelines to be eligible for:

- (a) Duty Counsel services.
- (b) Appointment of a lawyer for a child in high conflict parenting cases
- (c) Court-ordered lawyer services for adults and youth; and
- (d) In accordance with the Governance Agreement and through an Administrative Policy, other legal services which Legal Aid Alberta identifies can be provided, from time to time, without a client meeting Financial Eligibility Guidelines

Legal Aid Alberta will make decisions about financial eligibility using:

- (a) established levels of allowable income as set out in the table below, subject to changes in the Alberta Consumer Price Index.
- (b) a client's family size.
- (c) the amount of a client's allowed income.
- (d) the amount of a client's liquid assets; and
- (e) client's real property, being a house, building or land

FINANCIAL ELIGIBILITY GUIDELINES

Family Size	Bridges Services	Legal Representation		Discretionary Coverage Program	
		Monthly	Annual	Monthly	Annual
1	Financial Eligibility Guidelines do not apply	\$1,805	\$21,668	\$2,256	\$27,085
2		\$2,236	\$26,827	\$2,795	\$33,534
3		\$3,182	\$38,176	\$3,977	\$47,720
4		\$3,439	\$41,271	\$4,299	\$51,588
5		\$3,697	\$44,367	\$4,621	\$55,459
6+		\$3,956	\$47,462	\$4,945	\$59,328

OCTOBER 2022

A client will be financially eligible for legal representation services where the client's allowed income is equal to or under both the monthly and annual amounts for the client's family size. In limited circumstances, LAA may, in its sole discretion and in accordance with Administrative Policy, provide legal services where a client's allowed income exceeds monthly or annual amounts for the client's family size, or both monthly and annual amounts. Further, a client may be refused legal representation services if LAA determines that the client's real property or liquid assets exceed the level set by Board Policy.

Service Eligibility Guidelines

Service Eligibility for Criminal Matters

LAA may provide legal representation services to an eligible client charged with the following criminal offences:

- (a) indictable offences, whether in the Criminal Code or any other Federal act.
- (b) summary conviction offences with a:
 - i. likelihood of imprisonment upon conviction.
 - ii. likelihood of loss of the means of earning a living upon conviction; or
 - iii. a circumstance which Legal Aid Alberta, in its sole discretion, decides is exceptional enough for it to give legal services to the client.
- (c) Youth Criminal Justice Act offences.
- (d) Extradition Act offences.
- (e) any other offences, issues, or circumstances that Legal Aid Alberta includes, from time to time, through a Board Policy and approved in accordance with the Governance Agreement.



In addition, LAA may also provide services to clients with criminal matters where:

- (a) the service is requested by the Minister in those situations set out in the Governance Agreement; and
- (b) a court in Alberta orders the appointment of a lawyer for:
 - i. youth, provided the lawyer will be paid at rates not exceeding the Legal Aid Tariff for court appointed counsel for youth.
 - ii. adult persons, in provincial prosecutions under the Criminal Code of Canada, provided the lawyer will be paid as set out in the court order

A client who is charged with a criminal offence and *does not* fall into any of these categories may only receive duty counsel services.

Service Eligibility – Family Law Matters

Subject to Rule 3.13 and 3.17, LAA may provide legal representation services to an eligible client with:

- (a) Child welfare matters.
- (b) Interjurisdictional Support Orders Act.
- (c) Protection Against Family Violence Act or other forms of protection related to family violence;
- (d) Divorce Act or Family Law Act matters which may include custody, access, guardianship, parenting or contact time, spousal, or child support.
- (e) matrimonial property where:
 - i. there are also one or more matters in Rule 3.11.b.; or
 - ii. the client's equity in the property is \$50,000 or more.
- (f) constructive trust matters where the client's equity in the property is \$50,000 or more.
- (g) partition and sale matters between spouses where the client's equity in the property is \$50,000 or more; and
- (h) other family law matters that Legal Aid Alberta includes from time to time, through a Board Policy and approved in accordance with the Governance Agreement.



Further, LAA may provide legal representation services, on behalf of the Minister, if a court in Alberta orders the appointment of a lawyer for a child in a high-conflict child custody, access, guardianship, parenting or contact time matter and LAA determines that:

- (a) the lawyer is necessary to protect the best interests of the child.
- (b) the lawyer will be paid in accordance with the Legal Aid Tariff; and
- (c) either or both parents, having regard to their financial means, will be asked to reimburse Legal Aid Alberta for the costs of the lawyer.

Legal Aid Alberta will not provide legal representation services for:

- (a) uncontested divorces; or
- (b) contested divorces, where:
- (c) there are no corollary relief or matrimonial property issues, or
 - i. the matrimonial property is the only issue in dispute and the client's equity in that property is less than \$50,000.
 - ii. A client with family matters not referred to in Rules 3.11 or 3.12 may only receive Duty Counsel services

NOTE: A merit opinion from a LAA Assessment Team staff lawyer may be required before coverage is approved for Family Law Matters, and post PGO applications.

Service Eligibility – Civil Law Matters

Subject to Rule 3.17, LAA may provide legal representation services to an eligible client with:

- (a) immigration and refugee claims;
- (b) Adult Guardianship and Trusteeship matters, where the client is the person subject to or potentially subject to guardianship or trusteeship and;
- (c) other civil law matters that Legal Aid Alberta includes from time to time, through a Board Policy and approved in accordance with the Governance Agreement.

A client with civil matters not included in Rule 3.15 may only receive Duty Counsel services.


Can the decision to be refused legal representation services be appealed?

A client may request a review of an eligibility decision in accordance with the Rules and the Eligibility Review and Appeal Policy. An eligibility decision can be reviewed only if it is a decision that a client:

- (a) does not meet Service Eligibility Guidelines or Policies;
- (b) does not meet Financial Eligibility Guidelines or Policies; or
- (c) should have legal representation services terminated.

Review decisions will be made by LAA staff lawyers. A review decision can only be appealed on the ground that the Reviewer erred in finding that the client:

- (a) does not meet Service Eligibility Guidelines or Policies.

- 
- (b) does not meet Financial Eligibility Guidelines in accordance with the Rules and Administrative Policy; or
 - (c) should have their certificate-based legal services terminated.

All appeal decisions are final and cannot be appealed further.

Roster Lawyers

What is my role as a roster lawyer?

Administrative Policy 6 came into effect on June 1, 2021, and focuses on roster and panel management issues. It is important to become familiar with this policy as it provides a framework for how LAA makes roster and panel membership decisions, it defines a process for reviewing the quality of roster lawyers' services and sets a process for appealing roster or panel membership decisions.

This administrative policy defines your role as an LAA roster lawyer as follows:


- 1.7 LAA maintains a roster of lawyers in private practice. LAA only offers certificates and duty counsel appointments to lawyers who belong to this roster. A lawyer may apply to LAA's roster at any time submitting the application form on LAA's website. 1.8 If LAA tentatively accepts a lawyer's application to join the roster, the lawyer does not formally become a member of the roster until the lawyer enters into the prescribed roster agreement between LAA and the lawyer.
- 1.8 If LAA tentatively accepts a lawyer's application to join the roster, the lawyer does not formally become a member of the roster until the lawyer enters into the prescribed roster agreement between LAA and the lawyer.

What is an LAA roster panel?

A roster panel is comprised of a group of lawyers who specialize in certain matters or practice areas to achieve the following goals:

- (a) promote specialization and excellence within those practice areas;
- (b) help ensure that lawyers who represent LAA clients have the interest, aptitude, experience, and competencies required to successfully undertake the clients' matters;
- (c) give lawyers an incentive to develop, maintain, and enhance their competencies in certain subjects or practice areas; and
- (d) encourage lawyers to undertake continuing professional development.

How do I become a member of a roster panel?



Membership on a panel is for a fixed term, and LAA may determine how long a lawyer remains a member of a panel. Panel members may apply to extend their membership on the panel. Each panel is different and operates differently.

Further information can be found on your Lawyer Portal and watch the Roster Newsletter for new and upcoming roster panels.

Can I be suspended or terminated as a roster lawyer?


Yes. There are many ways a lawyer can be suspended or terminated from LAA's roster. According to Administrative Policy 6, LAA may remove a lawyer from the roster or panel if:

- (a) the lawyer violates a term of the roster lawyer agreement, the LAA Rules, or LAA policy;
- (b) the lawyer has:
 - i. submitted a dishonest or an intentionally misleading account or information to LAA,
 - ii. submitted accounts that contain significant errors or omissions, or
 - iii. failed to provide LAA with information or records that LAA has reasonably requested during an audit, compliance review, or quality-of-service review;
- (c) after conducting a quality-of-service review,
 - i. LAA concludes that the lawyer has failed to provide one or more clients with what LAA believes to be a minimally acceptable level of service, assistance, or representation, and the lawyer's continued participation on the roster or on a panel is inconsistent with the best interests of LAA's clientele, or
 - the lawyer fails to take any actions or steps LAA required of the lawyer under Part 3;
- (d) the lawyer fails to complete training or continuing education they agreed to complete as a condition of joining or remaining on the roster or the panel, as the case may be;
- (e) a professional regulator suspends the lawyer from the practice of law in Alberta or in another jurisdiction, because the lawyer has committed conduct deserving of sanction; or
- (f) the lawyer is alleged to have committed, or has been found to have committed:
 - i. an offence under the Criminal Code, the Controlled Drugs and Substances Act, or another federal criminal law; or
 - conduct deserving of sanction under the Code of Conduct of the Law Society of Alberta or a similar code of professional conduct, and LAA has reasonable grounds to believe the lawyer's continued participation on the roster or on a panel could endanger the interests of LAA's clients or could materially damage LAA's reputation or legal interests.

How long will I be suspended from the LAA roster?

The length of suspension may be for:

- (a) for a defined period, with or without the possibility of an early reinstatement if the lawyer meets certain conditions or,
- (b) indefinitely, subject to conditions that the lawyer must satisfy before being reinstated.



For further information regarding roster panel membership, please refer to Administrative Policy 6 which can be found on the LAA website.

Types of Certificates

LAA appoints lawyers, authorizes services for clients, and keeps track of billing and payments using certificates. There are several different kinds of certificates, including:

- (a) **Duty counsel certificates:** where LAA appoints a lawyer to provide summary or short-term legal assistance, generally without regard for the client's financial circumstances, which can be further subdivided into:
 - i. *Schedule-based duty counsel certificates:* where a lawyer provides summary or short-term assistance for more than one person in a specific place, on a specific day, or with a common legal issue (for example, acting as duty counsel in a criminal docket courtroom on a given day); and
 - ii. *Client-based duty counsel certificates:* where a lawyer provides summary or short-term legal assistance to a specific individual with respect to a narrowly defined legal issue that usually concludes in one or two appearances (for example, assisting a specific person at an emergency protection order review hearing);

- (b) **Client-based certificates:** which generally require the client to be financially eligible for LAA's services, and which can be further subdivided into:
 - i. *Client-based representation certificates:* where a lawyer acts for the client with respect to a defined legal issue or issues (for example, defending the accused on an ongoing basis with respect to a specific criminal charge);

 - ii. *Opinion certificates:* where a lawyer is retained to provide LAA with a written opinion about the merits or details of a client's legal issue or issues (for example, preparing an opinion about whether there is arguable merit to a client's appeal); and

 - iii. *Limited-hours and appropriate-hours certificates:* where a lawyer acts for a client with respect to a defined legal issue or issues, but where the lawyer may only provide a specified number of hours of assistance for the client until LAA specifically approves additional coverage or hours (for example, a certificate for helping a client before an immigration tribunal or a bail-only certificate).



Client-Based Representation Certificates

Pursuant to Administrative Policy 5, A lawyer named on the certificate is Counsel for the client. Rule 1.8 states that if LAA issues a client-based certificate to a lawyer, that lawyer (the “certificate lawyer”) must act for the client with respect to any matters that fall within the scope of the certificate.

Further, a certificate lawyer must appear as counsel of record before a court or tribunal that hears the client’s matter unless the certificate:

- (a) is for a duty counsel service;
- (b) is an opinion certificate; or
- (c) has a condition qualifying the scope of the lawyer’s retainer that makes it inappropriate for the lawyer to appear as counsel of record. 1.10 A lawyer who accepts a certificate with a less-than-full-scope retainer must disclose the scope of that retainer as required by any rules of the court or tribunal.

Coverage begins on the day LAA issues a certificate. Lawyers cannot submit an account for services they performed (or disbursements they incurred) before LAA issued the certificate. However, LAA may agree to cover services performed (or disbursements incurred) before a certificate was issued, but only in exceptional circumstances.

How are lawyers selected for certificates?

If LAA concludes that a client is eligible for certificate-based representation, LAA may take the following factors into consideration when deciding which lawyer should be offered a certificate:

- (a) for those matters where LAA typically offers certificates to a client’s preferred lawyer, the client’s choice of counsel, subject to any rules surrounding choice of counsel set out in the Governance Agreement, the Rules, or internal LAA policy;
- (b) whether there are specialized panels or lawyer qualifications that apply to a practice area or a type of certificate;
- (c) whether a lawyer practices within a geographic service area, and any internal policies about whether LAA will reimburse a lawyer from outside that geographic service area for the lawyer’s travel time or travel expenses;
- (d) the operational capacity, specialization, geographic service locations, and file selection criteria for any group of LAA staff lawyers
- (e) any criteria or offer processes set out in LAA’s internal appointing rules.



How do I accept an offer for a certificate?

LAA will offer certificates to lawyers using the Lawyer Portal, and lawyers may only accept certificates using the Lawyer Portal.

Why was my offer rescinded?

An offer expires on the date and time specified in the offer, and LAA may rescind an offer at any time before a lawyer accepts the offer. If LAA issues a certificate to a lawyer in error, LAA may:

- (a) revoke and cancel that certificate within five business days of when the certificate was issued without engaging the usual change-of-counsel process; and
- (b) reimburse the lawyer, at the normal Tariff rate, for any time a lawyer has spent working on that certificate and for any reasonable disbursements.

Can I receive offers only for specified geographic locations?

LAA may allow lawyers to select one or more geographic service areas that represent the lawyers' primary place (or places) of practice. LAA will typically offer certificates within a geographic service area only to lawyers who have selected that geographic service area.

Can another lawyer appear on a certificate if it is in my name?

If LAA issues a client-based certificate to a lawyer, that lawyer (the "certificate lawyer") must act for the client with respect to any matters that fall within the scope of the certificate. A certificate lawyer must appear as counsel of record before a court or tribunal that hears the client's matter unless the certificate:

- (a) is for a duty counsel service;
- (b) is an opinion certificate; or
- (c) has a condition qualifying the scope of the lawyer's retainer that makes it inappropriate for the lawyer to appear as counsel of record.


A lawyer who accepts a certificate with a less-than-full-scope retainer must disclose the scope of that retainer as required by any rules of the court or tribunal.

A certificate lawyer must not delegate work under a certificate to a lawyer who is not named on the certificate (a "second lawyer") unless one of the exceptions outlined in Administrative Policy 5 allows the certificate lawyer to delegate such work.

In what circumstances can I allow another lawyer to appear on my certificate?

Certificate lawyers cannot delegate work on certificates unless one of the following exceptions apply: delegating minor or peripheral work:

- (a) A certificate lawyer may allow a second lawyer to provide minor or peripheral assistance in a client's matter if the certificate lawyer has express or implied authority to delegate such work to



another lawyer. For example, in most circumstances, a certificate lawyer may delegate a straightforward scheduling appearance or docket court appearance to a second lawyer.


- (b) Delegating certain work when lawyer is not available: A certificate lawyer may delegate work to a second lawyer if:
 - i. the certificate lawyer is temporarily unavailable to assist the client
 - ii. because of the urgency of the matter or possible prejudice to the client, a reasonable lawyer would not wait until the certificate lawyer was available; and
 - iii. the client consents to the second lawyer's involvement in the matter. For example, in most cases, this exception will allow a second lawyer to:
 - a. assist a client with a straightforward bail hearing or a straightforward guilty plea for "time served" when the certificate lawyer is occupied in the trial of another matter; and
 - b. assist a client with an urgent family law application when the certificate lawyer is away on vacation
- (c) delegate with consent of the client and LAA: A certificate lawyer may delegate work to a second lawyer if:
 - i. the client consents to the second lawyer's involvement in the matter; and
 - ii. the certificate lawyer only delegates work as approved by LAA in response to the certificate lawyer's Authorization Request.

Delegated trials **DO NOT** fall within these exceptions and require special permission. Notwithstanding any of the exceptions outlined above, **a certificate lawyer must not delegate the conduct of a trial to a second lawyer without the consent of both LAA and the client.** LAA will only consent in exceptional circumstances. If a certificate lawyer cannot conduct a trial, in most cases, the lawyer should request a change of counsel or ask for the certificate to be transferred to another lawyer.

What are the requirements for delegating work to a second lawyer?

When a certificate lawyer delegates work to a second lawyer:

- (a) the certificate lawyer remains the sole point of contact with LAA on the certificate;
- (b) the certificate lawyer remains personally responsible to LAA for:
 - i. the conduct of the second lawyer in relation to the client's matter;
 - ii. ensuring the second lawyer provides competent service to the client;
 - iii. avoiding any potential conflicts because of the second lawyer's involvement; and
 - iv. ensuring the accuracy of all accounts submitted on the certificate;
- (c) the certificate lawyer must keep records of the specific work the second lawyer performed, and when that work was performed, and must provide these records to LAA upon request;

- 
- (d) LAA has no financial obligations to the second lawyer with respect to their involvement in the matter, and the certificate lawyer and second lawyer must make their own arrangements regarding remuneration of the second lawyer for their involvement in the file;
 - (e) the certificate lawyer will submit all accounts on the certificate, and payments will be made to the certificate lawyer; and
 - (f) the certificate lawyer may invoice LAA for a second lawyer's work only at the rates or block fees authorized under the Tariff.

Are there conditions on the Certificate?

In some circumstances, conditions may be placed on the certificate. These may include:

- (a) narrowing or qualifying the scope of assistance that a lawyer may provide to a client, or the matters covered by the certificate;
- (b) making the client's ongoing coverage contingent on LAA reassessing the merit of the matter at a later stage of the proceedings;
- (c) authorizing coverage only up to a certain stage of proceedings, with or without the option to extend coverage; or
- (d) responding to the specific circumstances of a client or a client's matter, if LAA deems those conditions reasonable in the circumstances.

What are the consequences for failing to comply with the conditions on the Certificate?

If a lawyer fails to comply with a condition attached to a certificate, LAA may cancel the certificate and may offer a certificate for this matter to another lawyer, and LAA may refuse to compensate the lawyer for any services performed (or disbursements incurred) in contravention of the condition.

Further, if a client fails to comply with a condition attached to a certificate, LAA may cancel the certificate and withdraw the client's coverage for that matter.


What are the lawyer's obligations to the client in relation to the Certificate?

A lawyer who represents a client on a certificate must make reasonable efforts to inform the client about:

- (a) the scope of the certificate, the breadth of the lawyer's retainer, and any limits on the representation the lawyer is authorized to provide under by the certificate;
- (b) any certificate conditions that LAA has imposed on the lawyer or the client; and
- (c) the financial consequences of any discretionary funding authorizations.

How does LAA decide whether to grant a change of counsel?

A lawyer or a client may request a change of counsel. LAA will consider these requests on a case-by-case basis, and in accordance with any internal LAA policies. Without limiting LAA's discretion, LAA will generally apply the following guidelines when evaluating these requests:

- 
- (a) LAA will not approve more than two changes of counsel caused by a breakdown in the lawyer-client relationship – for example, where a lawyer has withdrawn for ethical reasons because of a client’s conduct, or where a client has lost confidence in his or her lawyer – unless there are exceptional circumstances justifying the request; and
 - (b) LAA will approve a request for a change of counsel if a lawyer makes the request for reasons that were entirely outside a client’s control, such as when:
 - i. a lawyer believes they cannot competently represent the client;
 - ii. a lawyer discovers a disqualifying conflict of interest; or
 - iii. a lawyer is leaving the practice of law or taking a sabbatical.

When considering a request for a change of counsel, LAA may consider:

- (a) how many other changes of counsel LAA has authorized for the client;
- (b) the seriousness of the matter and the importance of the legal issues to the client;
- (c) the client’s concerns about the lawyer’s representation;
- (d) whether the client behaved reasonably during the lawyer-client relationship and whether the client has made unreasonable requests of prior counsel;
- (e) the status of the client’s matter before a court or tribunal, including:
 - i. whether the matter has been set down for a trial or hearing,
 - ii. whether counsel has sought or been granted permission to withdraw, and
 - iii. whether the court or tribunal has appointed amicus curiae or counsel to assist the client;
- (f) whether the client remains eligible for LAA services; and
- (g) any internal policies LAA has established regarding changes of counsel.

What are my obligations to LAA when a request for change of counsel is made?

A lawyer or client who requests a change of counsel must tell LAA why they are making the request. If LAA needs more information to assess the criteria mentioned in the preceding section, the lawyer and client must respond to LAA’s requests for information. LAA may share the information it receives with both the lawyer and client.


LAA may ask a lawyer to attempt to address a client’s concerns before LAA processes the client’s request for a change of counsel.

LAA may re-assess a client’s service eligibility or financial eligibility (under the relevant LAA policies) whenever LAA considers a request for a change of counsel. LAA may limit or cancel coverage if LAA determines the client is no longer eligible for services.

What is a High-Cost case?

Pursuant to Administrative Policy 7, a high-cost case (HCC) means a case where:

- (a) court or tribunal time, including trial and/or all preliminary or other appearance is anticipated to take more than 4 weeks.

- 
- (b) The total amount of time required to provide the legal services (including time already billed) is or is anticipated to be more than 500 hours; or
 - (c) The total amount of fees and disbursements incurred (including those already billed) is or is anticipated to be more than \$40, 000.

When a case satisfies the criteria, it will be managed by the High-Cost Case Management Program. When a case is identified as being part of this program, the lawyer is required to submit a Case Management Plan, budget and request for additional hours and disbursements. Requests for additional hours and special disbursements must be submitted prior to the use of hours or expenditures for disbursements. Failure to do so will result in non-payment.

How will I know if my case will qualify for the High-Cost Case Management Program?

LAA will screen all cases, on an ongoing basis, to determine whether they fall within the program. Where a client has multiple related cases, LAA may choose to include the cases in the High-Cost Case Management program.

What are my obligations under the High-Cost Case Management Program?

When a case is referred to the program, the lawyer must comply with any rules, policies, and procedures of LAA that relate to case management. Failure to comply, will result in cancellation of the certificate or refusal to pay for services provided.

What is the High-Cost Case Committee?

The High-Cost Case Committee (“HCCM”) consists of:

- (a) The High-Cost Case Manager (who will be an ex officio member without the right to vote)
- (b) 3 members, appointed by the Board, and;
- (c) Four lawyers appointed by the CEO or the CEO’s delegate

What matters get put before the High-Cost Case Committee?


The High-Cost Case Committee meets every third Tuesday of each month. Cases that are put before the Committee are as follows:

- (a) Where the anticipated hours in the case are over 900 or;
- (b) The cost of the case is over \$75, 000

**Please refer to Administrative Policy 7 for further information regarding the rules, policies, and procedures for the High-Cost Case Management Program.*

Can a Roster Lawyer act as Court-Ordered Counsel?

A court or tribunal, Alberta Justice & Solicitor General, or another government agency may ask LAA to facilitate the appointment of a lawyer:

- 
- (a) to act for or assist an individual pursuant to a statutory provision that permits a court or tribunal to appoint counsel (for example, under section 486.3 of the Criminal Code);
 - (b) to represent a child in a family law matter, the lawyer being appointed under a superior court's *parens patriae* jurisdiction;
 - (c) to act as *amicus curiae* in a matter; or
 - (d) in response to a Rowbotham application, a Rowbotham order, or a similar order directing state-funded counsel for someone whose section 7 Charter rights are jeopardized by the proceedings, and LAA may be required to provide coverage or facilitate the appointment of counsel in such circumstances (see Governance Agreement, ss. 1(f), 1(m), 1(p))

If LAA facilitates the appointment of a lawyer in such circumstances:

- (a) LAA may offer the appointment to any lawyer it chooses;
- (b) LAA will manage the appointment by way of a certificate, and if a lawyer accepts such a certificate, LAA will – to the extent possible and subject to the terms of a court order – manage the certificate like an ordinary matter where LAA has granted a client coverage;
- (c) LAA may attach conditions to the certificate to address any unique circumstances arising from the appointment;
- (d) LAA will, to the extent possible and subject to the terms of a court order:
 - i. reimburse the lawyer in accordance with the Tariff provisions that apply to the legal issue or the most analogous legal issue, and,
 - ii. manage discretionary coverage requests, lawyer billing, and the review of the lawyer's accounts in accordance with ordinary LAA policy; and
- (e) LAA may, as a condition for granting or continuing coverage under such a certificate, require a person who is represented by such a lawyer to agree to the same terms and conditions as an ordinary LAA client, including agreeing to repay LAA for legal services or disbursements in accordance with LAA policies.

Opinion Certificates

Writing Opinions for Appeals

What is required for a merit opinion?

If a certificate requires a lawyer to prepare an opinion about the merits of a client's case, application, or appeal, the lawyer must provide both LAA and the client with a copy of the opinion. LAA may require the lawyer to provide the opinion in the form specified by LAA. The lawyer is not authorized to order transcripts to prepare the opinion unless LAA approves a transcript disbursement by way of an Authorization Request.



Criminal Appeals

A thorough review of the client's case is necessary for LAA staff to properly assess the merit to the client's application for an appeal. A merit opinion must include the following:

- Summary of the evidence presented at trial, guilty plea, and/or sentencing
- Crown's theory of the case, Defence theory of the case
- Statement of the issues and supporting evidence/argument
- Summary of the trial judge's decision
- Transcripts of proceedings/trial judge's decision, if available

In some cases, the client may be seeking to appeal based on ineffective assistance of counsel, specifically when guilty pleas are entered. While we understand that this may pose a conflict for the lawyer drafting the opinion, we do request a limited overview of whether section 606(1.1) of the *Criminal Code* was complied with, whether written instructions were signed by the client, and any other available information that may assist LAA in deciding whether the guilty pleas were voluntary and informed. Requests for ineffective assistance of counsel are often meritless; however, any assistance in this determination is greatly appreciated.

SCC Leave Applications

In addition to the above-noted requirements, SCC leave applications require the following documentation:

- Trial judge's decision
- Court of appeal decision
- Factums
- A detailed argument regarding 'public interest'

Mental Health Appeals


To properly assess whether there is merit to an appeal of the Mental Health Review panel decision, the following information is required:

- Summary of the evidence presented at the hearing
- A detailed history of the client's mental health issues including hospitalizations
- Statement of the issues and supporting evidence/argument
- Transcripts of the Mental Health Review Panel decision, if available

Family Appeals

- Summary of the evidence presented at the hearing
- Statement of the issues and supporting evidence/argument
- Transcripts of the trial judge's decision

Immigration Appeals



To properly assess whether there is merit to an appeal of a decision by the Immigration and Refugee Board of Canada, the following information is required:

- Summary of the history of the client's immigration history;
- Summary of the main issues for the hearing;
- Summary of CBSA's case against the client or the evidence they seek to rely on;
- A brief summary of the client's situation or response to the proposed evidence;
- Summary of the outcome sought by the client;
- Summary of the outcome sought by the CBSA;
- A detailed overview of the decision;
- A copy of the decision, if available.

Limited-Hours and Appropriate-Hours Certificates

Bail Only Certificates

If someone is financially ineligible for certificate coverage but the person is detained in custody on a criminal matter, then LAA may issue an hourly, client-based duty counsel certificate that authorizes the lawyer to assist the person with an application for judicial interim release or an application to review a decision denying judicial interim release. The lawyer is responsible for ensuring the client, court, and prosecutor understand the scope of the lawyer's retainer. LAA will limit the amount of time the lawyer may spend assisting the client, and, in exceptional circumstances, LAA may grant an Authorization Request allowing additional time to assist the client with bail, beyond the time initially authorized under the certificate.


Appeal Certificates

If LAA issues a certificate to a lawyer that authorizes representation of a client on appeal:

- (a) LAA may define the scope of the appeal coverage (for example, limiting the appeal to an appeal against conviction or sentence);
- (b) the lawyer must promptly advise the appellate court and opposing counsel that the lawyer has been retained and must advise the court of the scope of the lawyer's retainer; and
- (c) if the matter will be heard in the Court of Appeal:
 - i. the lawyer must consult with Transcript Management Services to determine whether LAA may be billed directly for preparation of transcripts and appeal books, and,
 - ii. if TMS is prepared to bill LAA directly, the lawyer must arrange for TMS to do so, rather than billing the cost of transcripts and appeal books as a disbursement.

Drug Treatment Court

If a client is accepted into a Drug Treatment Court program, a client's certificate coverage on the matters dealt with through that program continues only until the client enters a guilty plea. If all the matters covered by the certificate are dealt with through that program, the lawyer who represented the client must submit an invoice within 30 days of when the client entered the guilty plea. If the client's guilty plea



is later struck, or if the client requires assistance in speaking to sentence that duty counsel cannot provide, the client may reapply to LAA for additional coverage and LAA may issue another certificate.

Complainant's Counsel Certificates (Duty Counsel for Complainants on 276 Applications, etc.)

If LAA issues a client-based duty counsel certificate for a lawyer to assist a complainant or another witness in a criminal matter with respect to an application brought under the provisions of sections 276 to 278.96 of the Criminal Code or analogous common law rules: (a) the lawyer must ensure the client, the court, and the other lawyers understand that the lawyer is limited to providing summary, short-term assistance in relation to that specific application and that the lawyer does not act for the complainant or witness at large or on other applications; and (b) the lawyer may submit an Authorization Request to LAA seeking additional time to assist the complainant in relation to that application – beyond the time initially authorized under the certificate – but LAA will only grant these requests in exceptional circumstances.

*Please refer to Administrative Policy 5 for further rules, policies, and procedures in relation to LAA certificates

FAQ-Certificates

General Inquiries

1. Who do I contact if I have questions about invoicing (that is not high cost)?
All inquiries about invoicing (that is not high cost) must be directed to the Taxation department (Taxation@legalaid.ab.ca).
2. How do I add charges or informations to my Certificate?
To request charges or informations be added to a Certificate, you must submit your request under "Add Legal Issue", provide the Information number and charges, and Certificate Management will assist.

3. Who do I contact if I require an extension of time to bill or need the certificate amended?

For all inquiries relating to the Certificate, for example, extension of time to bill, amendments, etc., please forward your request to Certificate Management (CertificateManagement@legalaid.ab.ca).

4. How do I obtain more detailed information about LAA's Rules and Policies?

This handbook is meant only to provide an overview of LAA's rules and policies. For more detailed information please visit LAA's website consult the following LAA rules and policies:

Governance Agreement

- Governance Agreement framework and summary
- Complete Legal Aid Alberta Governance Agreement

Rules

- Legal Aid Alberta Rules



- Legal Aid Offence Level Categorization (levels 2, 2.5, 3)

Tariff

- Legal Aid Alberta Tariff
- 2022 Legal Aid Alberta Tariff if the certificate was issued before January 1, 2023
- 2022 Legal Aid Alberta Tariff if the certificate was issued before October 6, 2022
- 2015 Legal Aid Alberta Tariff if the certificate was issued before December 7, 2015
- 2014 Legal Aid Alberta Tariff if the certificate was issued before February 4, 2014
- Board Policy 01 – Financial Eligibility Assets
- Administrative Policies
- Administrative Policy 01 – Service Eligibility
- Administrative Policy 02 – Financial Eligibility
- Administrative Policy 03 – Fee and Payment
- *UPDATED 2021* Administrative Policy 04 – Eligibility Decision Review and Appeal
- *UPDATED 2021* Administrative Policy 05 – Case Management for Certificate-Based Matters
- *UPDATED 2021* Administrative Policy 06 – Roster Management
- Administrative Policy 07 – Case Management for High Cost Cases
- Privacy Policy
- Administrative Policy 04 – Eligibility Decision Review and Appeal (2015)
- Administrative Policy 05 – Case Management for Certificate-Based Matters (2020)
- Administrative Policy 06 – Roster Management (2014)

Billing and Invoicing

What are LAA's rules for billing?

Lawyer May Not Accept Additional Payments for Certificate Services

When a lawyer acts on a certificate or as duty counsel, LAA must be the sole source of funding for any matters falling within the scope of that certificate or duty counsel appointment. A lawyer must not:

- (a) seek or accept any payment or reimbursement from the client or from any source other than LAA for any services provided (or disbursements incurred) when acting on that certificate or as duty counsel, or,
- (b) accept any gift or gratuity of more than a nominal value, unless LAA specifically approves that payment, reimbursement, gift, or gratuity in writing.

Retainer Agreements

A lawyer may send an LAA client a retainer letter or require the client to enter into a retainer agreement that defines reasonable terms of the lawyer-client relationship, but:

- (a) the terms must be consistent with the LAA Rules, the Tariff, and any LAA policies or client agreement; and
- (b) the lawyer must provide LAA with a copy of any such letter or agreement upon request.



No Referral or Transfer Fees

A lawyer must not pay or accept a referral fee, or give or accept any gift of more than nominal value, for:

- (a) recommending a lawyer to an LAA client for a certificate matter; or
- (b) transferring a certificate to another lawyer or recommending the transfer of the certificate to another lawyer.
- (c) A Lawyer Cannot Claim Lien or Withhold a Client's File.

A lawyer who has previously acted for a client on a certificate:

- (a) must promptly produce the client's file to the client's new lawyer when the client directs the lawyer to do so; and
- (b) must not claim a lien for fees, disbursements, or expenses on the client's file or any of the client's property or records in the lawyer's possession

Lawyer Must File Bail Assignment in Favour of LAA

If an LAA client has been released on a recognizance with a cash deposit, and if those bail monies have not already been assigned to a third party, the lawyer who represents the client on that matter must – as a condition of the lawyer continuing to represent the client – require the client to assign the bail monies to LAA and must file a bail assignment with the court.

Rationale for Requiring Clients to Pay Money to Lawyer for LAA's Benefit


LAA clients are sometimes entitled to receive money from third parties. Because LAA recovers the costs of legal services from its clients, LAA requires lawyers who represent clients on certificates to take steps to protect LAA's financial interests when those clients become entitled to receive money during a proceeding covered by a certificate.

Use of Costs, Settlements, etc. to Cover Client Accounts (and Exceptions)

A lawyer who represents a client on a certificate must seek the client's instructions to have certain money paid or transferred from third parties to the lawyer. This money is applied first against what the client owes – or will owe – LAA for legal fees, with any remaining balance returned to the client.

A lawyer who represents a client on a certificate must, in proceedings related to that certificate, seek the client's instructions to transfer money to the lawyer in the following circumstances:

- (a) if a court or tribunal orders costs in favour of the client, or orders a judgment for a specific sum of money in favour of the client;
- (b) if the parties reach a settlement agreement that involves someone paying a specific sum of money to the client;
- (c) if matrimonial or common property is sold and the client and others agree to divide the proceeds of the sale; or
- (d) if a third party has seized cash from a client and a court or tribunal orders this cash returned to the client.



Subject to the requirements of any security agreement between LAA and the client, a lawyer does not need to seek a client's instructions to have money paid to the lawyer under the preceding section if:

- (a) the lawyer represents the client on a duty counsel certificate;
- (b) the payment from the third party is periodic or ongoing child or spousal support;
- (c) the payment from the third party is a lump-sum payment of child support; or
- (d) the payment involves the return of only a nominal amount of petty cash.

Transferring Funds to LAA to Cover Client Fees & Remitting the Balance to the Client

When a lawyer accepts money on behalf of a client pursuant to this Part:

- (a) the lawyer must promptly prepare and submit an interim or final account to LAA that covers all legal services and disbursements that relate to that client to date;
- (b) when the lawyer submits the account, the lawyer must advise LAA that the lawyer holds money in trust that may be applied against LAA's fees, and then await direction from LAA;
- (c) after receiving direction from LAA, the lawyer must transfer enough money to LAA – in the manner directed by LAA – to cover the lawyer's account (or accounts) and any other amounts the client owes LAA for other certificate matters; and
- (d) if there is client money remaining after that sum has been transferred to LAA:
 - i. if the lawyer has submitted a final account, the lawyer must remit the balance to the client, in accordance with the Law Society rules about returning money to clients; and
 - ii. if the lawyer has not yet submitted a final account, the lawyer must hold back any amount that LAA instructs the lawyer to withhold in the expectation of the lawyer's subsequent accounts, and then remit the balance, if any, to the client, in accordance with Law Society rules about returning money to clients.

LAA Does Not Accept Trust Funds

LAA only accepts settlement funds or other client funds from lawyers when that money is being used to satisfy a lawyer's account. LAA will not accept client funds before a lawyer issues an account, and a lawyer is responsible for holding client funds in trust until they are transferred to LAA in accordance with this Part.

Lawyer Must Help Implement Security Agreement

As a condition of granting a client coverage, LAA may require the client to enter into a security agreement where LAA takes an interest against real or personal property. If LAA notifies a lawyer that LAA has required the client to enter into a security agreement, the lawyer must take reasonable steps to help implement the terms of that security agreement.

Lawyers Must Seek Guidance when they Cannot Comply with these Rules

A lawyer must promptly contact LAA and seek LAA's direction if:

- (a) the lawyer is uncertain whether they must accept client funds under this Part;
- (b) a client refuses to instruct the lawyer to accept or transfer money as required by this Part; or
- (c) the lawyer believes they cannot accept money or transfer money as required by this Part because of the lawyer's professional obligations or for any other reason.



Will my accounts be reviewed?

Most certificate-based services are not free, and clients are expected to repay LAA for the services LAA provides via certificate lawyers. LAA is also publicly funded and is accountable to the Government of Alberta and Law Society of Alberta under the terms of the LAA Governance Agreement. As such, LAA must take steps to ensure that lawyers' accounts are complete and accurate, and LAA must establish processes for the review of these accounts.



What are my responsibilities for ensuring my accounts are accurate and complete?

Lawyers Must Keep Time Records, Appearance Records, and Disbursement Records

If the Tariff or a discretionary authorization allows a lawyer to charge for actual time the lawyer spent working on a file, performing legal services, travelling, or waiting in court or at a tribunal, the lawyer must keep timekeeping records that:

- (a) provide a reasonably descriptive and itemized list of each specific service rendered, referring to the Tariff item that authorizes the lawyer's fee, if applicable;
- (b) identify how much time was spent on each item; and (c) identify the day on which each itemized service was rendered.

If the Tariff allows a lawyer to charge a block rate for a court or tribunal appearance, pre-trial conference, portion of a trial or hearing, or any service where the Tariff item is inclusive of both preparation and attendance, the lawyer must keep a record of:

- (a) the day or days when the lawyer performed any such services, and whether the service was performed in the morning, afternoon, or both;
- (b) the place or courtroom where a service was performed; and
- (c) any other information necessary to justify the lawyer's account based on the definition of that Tariff item.

A lawyer must keep:

- (a) an itemized list of disbursements incurred when representing a client on a certificate; and
- (b) any invoices, records, receipts, or reports associated with those disbursements.

Lawyers Issued Certificates are Responsible for Other Lawyers' Records

Where a lawyer submits an account that includes charges for services that were performed by another lawyer – including work charged at an hourly rate and any block Tariff items – the lawyer must:

- (a) keep a record of the name of the lawyer who provided those services;
- (b) ensure that the second lawyer maintains the same records that the lawyer is required to keep under this policy; and
- (c) provide LAA with a copy of those records in the same manner as though the lawyer created the records

Lawyers Must Keep Records for Four Years from Final Invoice

If this policy requires a lawyer to keep a record or information in relation to a certificate, the lawyer must keep the record or information for at least four years from when the lawyer submits the final invoice for that certificate.

Accounts Submitted via Lawyer Portal Only

A lawyer must submit all accounts for a certificate using the Lawyer Portal, in the form required by the Lawyer Portal, and including supporting documents or records the Lawyer Portal requires.



Interim Accounts

A lawyer may submit an interim account on a certificate for any legal services the lawyer provides (or disbursements the lawyer incurs) before the client's matter concludes.

LAA may, by an internal business rule:

- (a) require a lawyer to submit interim accounts on certificates periodically; or
- (b) limit how frequently a lawyer may submit an interim account on a certificate.

Final Accounts and Deadline for Submitting Final Accounts

Delays submitting accounts have a significant impact on LAA's ability to manage its financial affairs and LAA's ability to recover expenses from clients who may be responsible for repaying the lawyer's account. As a result, there is a deadline for lawyers to submit accounts in relation to their certificate matters. A lawyer must submit their final account no later than six months after:

- (a) LAA cancels the client's coverage on the certificate,
- (b) all matters covered by the certificate have been resolved or have concluded, or
- (c) the lawyer stops acting for the client on the matters covered by the certificate, whichever comes first.

A lawyer who has missed the deadline for submitting an account may submit an Authorization Request to LAA, requesting an extension of time to submit the account. The Authorization Request must explain why the lawyer failed to submit the account before the deadline.

If a lawyer submits an account after this deadline, LAA may, at its sole discretion:

- (a) refuse to pay the lawyer's account, or
- (b) choose to pay all or some of the lawyer's account.

Can I fix errors to an invoice once it has been submitted?

A lawyer who submits a final account has 45 days from when the account was submitted to advise LAA of any errors or omissions on the final account or any related interim accounts and to amend their account or accounts. A lawyer cannot make any changes to an account on the certificate once this period has passed.

Despite the preceding section, a lawyer cannot amend an account if:

- (a) the lawyer has already released funds to a client under Part 4 of this policy; and
- (b) the account was issued before the lawyer released those funds.

Am I required to attach supporting documents to my invoice?

Yes. When a lawyer submits an account, LAA may review the account and may refuse to pay the lawyer for any unauthorized or undocumented items or expenses (including, for example, refusing to pay for disbursements that are not supported by receipts) or for any aspects of the account that do not comply with the Tariff, any conditions attached to the certificate, or any discretionary funding authorizations. For high-cost invoices, timesheets must be submitted with the invoice.



Does LAA complete audits on accounts?

Yes. If LAA pays a lawyer's account after an initial review of the account, this does not prevent LAA from subsequently initiating a compliance review with respect to that account.

LAA may initiate a compliance review:

- (a) of a specific account (or specific accounts), either interim or final; or
- (b) with respect to a specific Tariff item or a specific type of disbursement that a lawyer has billed on a series of accounts.

LAA may initiate a compliance review:

- (a) randomly, without any prior concerns about a lawyer or an account;
- (b) in response to concerns about a lawyer, an account, a Tariff item, or a type of disbursement; or
- (c) or for any other reason. 6.22 LAA may initiate a compliance review of an account by sending a letter to the lawyer who submitted the account, advising the lawyer that LAA is reviewing the account.

LAA may initiate a compliance review:

- (a) in the case of an interim account,
- (b) at any time before a lawyer submits a final account on the certificate; or
- (c) if the lawyer has already submitted a final account on the certificate, at any time within three years of when the final account was submitted; or
- (d) in the case of a final account, at any time within three years of when the lawyer submitted the final account.


What are my obligations when a compliance review is conducted?

During either the initial review of an account or a compliance review, LAA may require a lawyer to provide LAA with records that pertain to the accounts under review, including:

- (a) any records the lawyer is required to create or keep under this policy;
- (b) any billing records created or kept by another lawyer who performed work for the client; or
- (c) a copy of originating documents, endorsements or clerk's notes, court orders, affidavits, transcripts, written argument, or any document that was filed in court by any party to the matter (unless the lawyer is legally prohibited from providing these documents to LAA); and
- (d) any records necessary to account for funds or property that was received from, or on behalf of, a client, including any settlement funds or any costs awards made in favour of the client.

LAA may require a lawyer to provide these records in electronic (PDF) format. A lawyer must provide LAA with these records within 30 days of when LAA requests the records, unless LAA extends this deadline. If the lawyer does not provide the information or records before the deadline, LAA may decide on the compliance review based on the information known to LAA.

What factors are considered on review of an account?



After an informal review or a compliance review, LAA will determine whether a lawyer's account was inordinately high or unjustifiable because:

- (a) the account or its supporting records were materially incomplete or inaccurate;
- (b) the account did not comply with the Tariff, any LAA policy, a discretionary funding authorization, or any conditions attached to a certificate or an authorization;
- (c) the lawyer took plainly unnecessary steps in relation to the client's matter or spent grossly excessive time providing services to the client;
- (d) the lawyer has invoiced LAA for services that fall outside of the scope of the matters covered by a certificate;
- (e) a disbursement was excessive, unapproved, plainly unnecessary, or incorrectly allocated to the account.

When determining whether a lawyer's account was inordinately high or unjustifiable, LAA may consider:

- (a) any standards or criteria applied by the Review Office of the Court of King's Bench of Alberta when that office assesses the reasonableness of an ordinary lawyer's account, insofar as those standards or criteria may be adapted and applied to LAA accounts, and
- (b) any billing, invoicing, or timekeeping guidelines, policies, or best practices that LAA has created to assist roster lawyers and has published on the LAA website.

What will occur after a compliance review has been completed?

If, after conducting an informal review or a compliance review, LAA determines that a lawyer's account was inordinately high or unjustifiable, LAA may:

- (a) require the lawyer to reimburse LAA for any overpayments or unjustified payments; or
- (b) set off any overpayments or unjustified payments against future payments to the lawyer in relation to other matters.

LAA will reimburse a client for any credit on their account if:

- (a) LAA concludes that a lawyer's account was inordinately high or unjustifiable;
- (b) the client has already paid LAA any excess amount the lawyer charged the client; and
- (c) there is a net credit on the client's LAA account after factoring in any other amounts the client owes LAA on other matters.

What will happen if I do not comply with a compliance review?

If, after having been given a reasonable opportunity to do, a lawyer does not provide LAA with any records LAA has requested under this Part, LAA may suspend a lawyer from the roster and stop issuing that lawyer certificates until they produce those records.

If a lawyer fails to repay LAA in accordance with a repayment schedule that was established under this Part, LAA may suspend the lawyer from the roster and stop issuing that lawyer certificates until they make the payments required under the repayment schedule.



Administrative Reviews

Can I request an administrative review of LAA's decisions?

A lawyer to whom a certificate was issued may request an administrative review of:

- (a) a discretionary authorization decision made under Part 4 of Administrative Policy 5;
- (b) the outcome of an initial review of the lawyer's account;
- (c) the outcome of a compliance review of the lawyer's account; or
- (d) suspension from the roster for failing to provide records during a compliance review or for failing to comply with a repayment schedule.

A client with coverage under a certificate may request an administrative review of:

- (a) the decision to refuse a change of counsel;
- (b) the decision to dismiss the client's complaint about an account; or
- (c) the outcome of a compliance review that was initiated in response to a client complaint.

There is no administrative review of LAA's decision to offer a certificate to a lawyer or of LAA's decision to rescind or cancel an offer to a lawyer.

LAA's decision on an administrative review is final and there is no further appeal.

What is the process for initiating an administrative review?

A lawyer or client must initiate an administrative review of a decision within 30 days of when LAA advises the lawyer or client of the decision, unless LAA extends this deadline.

An administrative reviewer may consider the decision under review afresh, without deference to the earlier decision-maker's decision, and may gather any new information the administrative reviewer believes would help perform the review.

An administrative review under this policy is commenced and conducted in writing. The reviewer will consider the written submissions of the lawyer or client.

If LAA denies an Authorization Request, then instead of requiring the lawyer to apply for an administrative review, LAA may invite the lawyer to submit a new Authorization Request:

- (a) with additional details or information; or
- (b) at a later stage in the proceedings.

Case Management Decisions

Issue / Type of Decision	Initial Decision	Admin. Review Decision
<ul style="list-style-type: none"> • Changes of counsel • Transfer of certificates • Cancellation of certificates • Imposing conditions on certificates • Review of a lawyer's account (before the account is approved and paid) • Applications for extensions of time to submit a lawyer's account, after the deadline has passed 	Certificate & Tariff Officer	Senior Manager, Certificate & Assessment Services (or delegate)
<ul style="list-style-type: none"> • Discretionary authorizations under Part 3 (extra hours, disbursements, expert funding requests, retroactive requests, hours for second counsel, adding additional legal issues in family files, etc.) and conditions attached to those authorizations • Discretionary reimbursement for cancelled certificates or lost trial time 	Lawyer, Legal Assessment Team	Manager, Legal Assessment Team (or staff lawyer delegate)
<ul style="list-style-type: none"> • Informal review of a lawyer's account in response to a client's complaint (after the account has been paid) 	Quality Advisor	<ul style="list-style-type: none"> • <i>When requested by a client:</i> Senior Manager, Certificate & Assessment Services (or delegate) • <i>When requested by a lawyer:</i> No administrative review; lawyer may request a compliance review if dissatisfied with CTO adjustment to account
<ul style="list-style-type: none"> • Compliance review of a lawyer's account (after the account has been paid), whether it was initiated by client complaint or by LAA 	Internal Auditor or Lawyer, Legal Assessment Team	Vice President, Finance & Technology (or delegate)
<ul style="list-style-type: none"> • Suspension of a lawyer for failing to reimburse LAA or for failing to provide records within a reasonable time 	Vice President, Finance & Technology (or delegate)	CEO (or delegate)



CONTACTS

For inquiries relating to invoicing (that is not high cost), Counsel should forward their request directly to Taxation@legalaid.ab.ca.

For inquiries relating to breach charges or other informations being added to Certificates Counsel must submit requests under "Add Legal Issue", provide the Information number and charges, and Certificate Management will take care of the request.

For inquiries or requests relating to extension of time to bill or asking for coverage or anything to do with "amending" the certificate, Counsel should forward their request directly to CertificateManagement@legalaid.ab.ca.

Final Note

Again, welcome to Legal Aid Alberta. We look forward to having you on our roster. Please note, this package is meant to provide general information only. Please ensure to review Legal Aid Alberta's external policies and rules on the Lawyer's Portal.



PART 2:

Supporting Documents



Appendix A: The Legal Aid Tariff

Opinion Certificates

Please note, File Opening and Closing fees do not apply to Opinion Certificates.

6.01 Opinion – 1 hour – Express Payment \$132.44 (\$117.56)

Explanation: Fee is inclusive of all fees and disbursements for the Certificate.

6.02 Opinion – 2 hour – Express Payment \$264.88 (\$235.13)

Explanation: Fee is inclusive of all fees and disbursements for the Certificate.

6.03 Counsel Unable to Provide Opinion – Express Payment \$72.91 (\$63.99)

Explanation: Fee is inclusive of all fees and disbursements for the Certificate.

6.04 Opinion – Regular Tariff \$125.00/hour (\$110.13/hour)

Explanation: Maximum hours as specified on Certificate; disbursements may be billed.

Family/Civil Certificates

3.01 File Opening Fee- \$135.29

Explanation: Payable on the first account rendered on a Certificate; this fee is intended to compensate Counsel for steps associated with the opening and continuation of a file that are not compensable under any other Tariff item, such as booking appointments with the client, preparing memos for the file, and providing instructions to legal assistants. If representing co-clients, the full fee can be billed on each Certificate.

3.02 File Closing Fee- \$67.64


Explanation: Payable on the final account rendered on a Certificate, as long as Counsel has had conduct of a file for at least six months, has brought matters to conclusion OR completed at least ten hours of work on the file; the fee is intended to compensate Counsel for steps associated with the conclusion of a file, including providing materials to the client, preparing accounts to submit to Legal Aid Alberta and preparing the file for closure.

3.03 Base Civil Coverage

- \$125.00/hour (\$110.13/hr.) – Maximum 30 hours
- Appropriate Hour Certificates will indicate in the condition shown on the certificate how many hours are provided. If it is 30 hours, it will be a “Lawyer Representation” certificate as opposed to “Appropriate Hour” certificate.

Explanation: The following may be billed under Base Civil Coverage:

- interviews and phone calls with client;
- reviewing documents;

- 
- preparation of all documents and pleadings related to a matter;
 - negotiations and correspondence;
 - preparation regarding witnesses, including experts and experts' reports;
 - preparation for trial or hearing;
 - legal research;
 - concluding matters;
 - appearance before a Dispute Resolution Officer or Judicial Dispute Resolution;
 - appearances to adjourn a matter;
 - waiting time in Court or at Tribunal;
 - time in Court or at Tribunal prior to 9 a.m. or after 5 p.m.;
 - preparation for and attendance at pre-trial or pre-hearing conferences or case management;
 - preparation of written argument or submission for Court or Tribunal; and o. services provided to Legal Aid Alberta – i.e. securing mortgage documents

Counsel are asked to use the following as guidelines for billing for the preparation of documents. Counsel may deviate from these guidelines but may be asked to provide an explanation:

- basic correspondence, including email, 0.10 or 0.20 hours per item;
- review of correspondence received, including email, 0.10 hours per item;
- Notice to Disclose/Notice of Motion, 0.30 hours per Notice;
- Notice of Motion for a Regular Chambers Application, 0.30 to 0.50 hours per Notice;
- Statement of Claim, 0.50 hours;
- Request for Divorce, 0.30 hours; or
- Order, 0.50 to 1.00 hours per Order.

Counsel may not bill for the following, as it is anticipated that these steps are adequately compensated by the file opening and closing fees:

- preparing memos to place on a file;
- telephone conversations, correspondence or other steps taken to schedule appointments with client;
- providing office staff with instructions;
- sending copies of letters to client or anyone else;
- communication with Legal Aid Alberta via email, correspondence, or telephone; and
- preparing accounts.

We will also need an explanation for any court documents that require more than 2 hours to prepare. Counsel should review time records and adjust them to reflect these guidelines or provide an explanation for all time entries that do not comply.

3.04 Preparation for Examinations

- \$125.00/hour (\$110.13/hour) – Maximum 1 hour per examination


3.05 Attendance at Examinations

- \$125.00/hour (\$110.13/hour)

3.06 Attendance at Judicial Dispute Resolution

- \$125.00/hour (\$110.13/hour)

3.07 Attendance in Chambers as Applicant or attendance in Family Court for Hearing

- 
- \$125.00/hour (\$110.13/hour) – Minimum 1 hour per appearance

Explanation: Adjournments are not billable under this item but should be billed under Tariff item 3.03. Note that Counsel can only initiate two Regular Chambers applications and must seek prior approval to initiate any additional application under Extra Tariff item 7.03 Counsel must indicate the issue for the Application. Please advise the nature and outcome of the appearance. In provincial family court, docket appearances are billed under 3.03. A hearing, such as a Resolution Hearing (whether applicant or respondent) is billed under this Tariff Item.

3.08 Preparation and Attendance for Special Chambers

- \$125.00/hour (\$110.13/hour) – Maximum 6 hours per Certificate

Explanation: Includes preparation of documents, general preparation for appearance and attendance at Application. Counsel may only initiate one Special Chambers Application per Certificate without prior approval.

3.09 Preparation of Documents when Responding to Regular QB Application

- \$125.00/hour (\$110.13/hour)– Maximum 3 hours

3.10 Attendance in Regular QB Chambers as Respondent

- \$125.00/hour (\$110.13/hour)– Minimum 1 hour per appearance Please advise the nature and outcome of the appearance.

3.11 Attendance at Trial – 1st half day to 10th half day inclusive

- \$319.94/half day (\$275.30/half day)

3.12 Attendance at Trial – 11th half day forward

- \$ 660.71/half day (\$581.85/half day)

Explanation: Fee is inclusive of an additional hour per half day for preparation for trial

Administrative Law Certificates

Please note that Tariff items 3.01 (File Opening Fee) and 3.02 (File Closing Fee) apply to Part 4 Civil Certificates.

4.01 Immigration

- \$125.00/hour (\$110.13/hour)

Explanation: Maximum number of hours allowable will be indicated on Certificate. Counsel may bill actual time for all steps included in Base Civil Coverage (Tariff item 3.03), preparation and appearance.

4.02 Workers' Compensation Board

- \$125.00/hour (\$110.13/hour)

Explanation: Please see 4.01

4.03 Income Security Program (Denial of Benefits)

- \$125.00/hour (\$110.13/hour)

Explanation: Please see 4.01

4.04 Canada Pension Plan Appeal

- \$125.00/hour (\$110.13/hour)



Explanation: Please see 4.01

4.05 Assured Income for the Severely Handicapped Appeal

- \$125.00/hour (\$110.13/hour)

Explanation: Please see 4.01

4.06 Employment Insurance Appeal

- \$125.00/hour (\$110.13/hour)

Explanation: Please see 4.01 4.07 Other \$100.00/hour (\$88.10/hour) **Explanation:** Please see 4.01

Civil Appeal Certificates

Please note that Tariff items 3.01 (File Opening Fee) and 3.02 (File Closing Fee) apply to Civil Appeal Certificates.

5.01 Additional Preparation Time when Counsel was not Counsel of Record at the original hearing in Family Court

- \$125.00/hour (\$110.13/hour) – Maximum 5 hours

Explanation: Counsel may bill for interview time with client, all correspondence, drafting, filing and service of all documents including factum and briefing of law.

5.02 Additional Preparation Time when Counsel was not Counsel of Record at the original hearing in King's Bench

- \$125.00/hour (\$110.13/hour)– Maximum 10 hours

Explanation: Please see 5.01

5.03 Attendance at Speak to the List in for Appeals

- \$125.00/hour (\$110.13/hour) – Maximum 1 hour per appearance

Explanation: Counsel is expected to avoid such appearances whenever possible.

5.04 Waiting Time when Waiting for Appeal to be Heard

- \$125.00/hour (\$110.13/hour) – Maximum 2.5 hours per half day

Explanation: Time spent waiting for Court or Tribunal to commence is only payable where no other fee is being claimed for the same half day on the Certificate, any other Certificate, or a private matter.

5.05 Preparation for Appeal of a decision made in Family Court

- \$125.00/hour (\$110.13/hour) – Maximum 20 hours

Explanation: Please see 5.01

5.06 Preparation for Appeal of a decision made in the Court of King's Bench

- \$125.00/hour (\$110.13/hour) – Maximum 30 hours

Explanation: Please see 5.01

5.07 Appearance in Court of King's Bench or Court of Appeal for Appeal Hearing

- \$312.50/half day (\$275.30/half day)



5.08 Preparation of Interlocutory/Leave Applications in the Supreme Court of Canada

- \$1693.73 (\$1625.00)

Explanation: Counsel may bill for interview time with client, all correspondence, drafting, filing and service of all documents including factum and briefing of law.

5.09 Preparation of appeal in the Supreme Court of Canada where trial lasted one day or less

- \$125.00/hour (\$110.13/hour) – Maximum 10 hours

Explanation: Please see 5.08

5.10 Preparation of appeal in the Supreme Court of Canada where original trial lasted more than one day up to five days

- \$125.00/hour (\$110.13/hour) – Maximum 25 hours

Explanation: Please see 5.08

5.11 Preparation of appeal in the Supreme Court of Canada where original trial lasted more than 5 days

- \$125.00/hour (\$110.13/hour) – Maximum 25 hours per 5 days (or portion thereof) of original trial

Explanation: Please see 5.08 5.12

5.12 All Appearances in the Supreme Court of Canada

- \$1693.73 (\$1625.00) per day

Mental Health Certificates

LAA Staff Duty Counsel often assist clients at their hearings before the Mental Health Review Panel. However, in some cases, a Duty Counsel certificate will be issued to Roster Counsel to appear on behalf of the client.

1.29 Duty Counsel Hours

- \$125.00/hour (\$110.13/hour)

Explanation: Mental Health Certificates fall under Duty Counsel Certificates. A Duty Counsel Certificate is where LAA appoints a lawyer to provide summary or short-term legal assistance, generally without regard for the client's financial circumstances.

Criminal Certificates

How are offences categorized?

LAA categorizes offences as Level 1, Level 2, Level 2.5, and Level 3. Criminal offences are organized into each category based on the seriousness/complexity of the charge. Level 1 files are considered the least serious/complex, while Level 3 is considered the most serious and complex. LAA's tariff of fees is based on the level of the offences your client is charged with.

1.01 File Opening Fee:

- Level 2 Offence: \$67.64
- Level 3 Offence: \$135.29



Explanation: The file opening fee is intended to compensate Counsel for steps associated with the opening and continuation of a file that are not compensable under any other tariff item, such as booking appointments with the client, preparing memos for the file, and providing instructions to legal assistances. This fee applies to both Certificates when representing a co-accused and should be billed in the full amount on each.

1.02 Express Payment-Level 1 Guilty Plea/Resolution by ECR

- \$587.80 (\$517.86)

Explanation: This fee is inclusive of all fees and disbursements for the Certificate, so no other Tariff item (including fees, disbursements, or travel) may be billed when billing under this tariff. An Express Payment concludes the Certificate, inclusive of any extensions.

1.03 Express Payment-Level 2 Guilty Plea/Resolution by ECR

- 937.50 (\$825.89)

Explanation: same as 1.02.

1.04 Express Payment- Level 1 Trial

- \$1020.84 (\$900.30)

Explanation: same as 1.02.

1.05 Express Payment-Alternative Measures, Extra-Judicial Sanctions and Peace Bonds

- \$711.31 (\$627.98)

Explanation: same as 1.02.

1.06 Interviewing and Briefing-Level 1 Offence

- \$230.65 (\$202.38)

Interviewing and Briefing-Level 2 Offence

- \$625.00 (\$550.60)

Interviewing and Briefing-Level 3 Offence

- \$2500.00 (\$2202.38)

Explanation: Fee is inclusive of interview time with the client as well as both defence and sentence briefing.

1.07 Provincial Court Bail Applications

- \$125.00/hour (\$110.13/hour)

Explanation: Fee is inclusive of preparation and appearance. All required Provincial Court Bail Applications may be billed.

1.08 KB Bail, s. 525 Reviews and Bail Revocation Application

- \$250.00 (\$220.24)

Explanation: Fee is inclusive of preparation and appearance. Only one Bail Application is permitted per Certificate. Counsel may request coverage for additional Bail Applications as an Extra Tariff item. Coverage extends to ALL s.525 Reviews and Bail Revocation Applications.

1.09 Preparation and Service of Bail Order

- \$125.00/hour (\$110.13/hour)

Explanation: Fee is inclusive of all steps taken to draft, file and serve a bail Order following a successful bail application or a variation of bail conditions in the Court of King's Bench.



1.10 Adjourments in Docket Court

- \$62.50 (\$55.06)

Explanation: The first Docket appearance Counsel makes for the client is not a billable adjournment, as the first Docket appearance is included in the block fees for dispositions.

Adjournments are only payable in the following circumstances:

- Client fails to appear/Counsel appears for warrant cancellation;
- Crown or Court is not prepared to proceed;
- Co-accused requests an adjournment for any reason;
- Disclosure has not been provided subsequent to the first appearance;
- Complainant or witness fail to attend;
- Counsel appears to withdraw from the record;
- ECR process requires adjournment;
- Counsel has not had the opportunity to interview the client or prepare for trial/preliminary;
- LAA has provided erroneous information as to date or courtroom; there are multiple sets of charges, Counsel appears to consolidate matters;
- LAA has appointed two Counsel in error and both appear;
- Waiting for pre-sentence report, medical report, etc.

Adjournments CANNOT be billed under the following circumstances:

- The appearance is for election and plea and/or setting dates and none of the above apply;
- Counsel requests an adjournment due to his or her scheduling difficulties;
- Counsel is unable to attend due to personal matters;
- The client has requested an adjournment in an effort to postpone the matter

1.11 Adjourments not in Docket Court

- \$125.00/hour (\$110.13/hour)

Explanation: Please see 1.10.

1.12 Pre-Trial Conferences and Pre-Preliminary Conferences

- \$250.00 (\$220.24)

Explanation: This tariff can be charged more than one time.

1.13 Waiting Time

- \$125.00/hour (\$110.13/hour)-Maximum 2 hours per half day

Explanation: Time spent waiting for Court to commence is only payable where no other fee is being claimed for the same half day on the Certificate, any other Certificate or private matter.

1.14 Court Outside of Regular Hours

- \$125.00/hour (\$110.13/hour)

Explanation: Counsel may bill for actual time spent in Court prior to 8:30 am and after 5:00 pm.

1.15 Preliminary Inquiry-1st half day

- \$640.96 (\$563.99)

Explanation: For conducting a preliminary inquiry, including where the Crown stays or withdraws or calls no evidence on the day of preliminary with no prior notice to Counsel.

Fee is inclusive of:

- All appearances to set dates for election and plea;

- Obtaining disclosure
- Defence adjournments except as provided for under Tariff 1.10 and 1.11;
- Negotiations with the police and Crown, including ECR steps;
- Preparation, including preparation of witnesses
- Attendance

1.16 Preliminary Inquiry-2nd to 10th half day

- \$327.38 (\$288.69)

Explanation: Please see 1.15.

1.17 Preliminary Inquiry-11th half day forward

- \$502.98 (\$441.96)

Explanation: Please see 1.15

1.18 Guilty Plea at the Completion of Preliminary Inquiry (if done in the same half day)

- \$125.00/hour (\$110.13/hour)

Explanation: Fee is inclusive of preparation and attendance.

1.19 Waiver of Preliminary Inquiry

- \$125.00/hour (\$110.13/hour)

Explanation: Fee is inclusive of preparation and attendance.

1.20 Arraignments

- \$125.00/hour (\$110.13/hour)

Explanation: Counsel is expected to pre-book trial dates whenever possible; attendance at arraignments will only be compensated, when necessary, because of special circumstances (explanation required).

1.21 Written Argument when ordered by the Court

- \$125.00/hour (\$110.13/hour)-maximum 10 hours

Explanation: A copy of the written argument must be made available to LAA upon request.

1.22 Written Argument when not ordered by the Court

- \$125.00/hour (\$110.13/hour)-Maximum 5 hours

Explanation: A copy of the written argument must be made available to LAA upon request. This Tariff item is intended to provide compensation when Counsel determines completion of written argument is in the best interests of the client. Under this Tariff, written arguments include but are not limited to: Charter applications, sentencing submissions or bail submissions.

1.23 Jury Selection


- \$125.00/hour (\$110.13/hour)- Maximum of 3 hours per half day

1.24 Trial-1st half day

- \$747.03 (\$659.23)

Explanation: The definition of trial includes the following:

- Proceedings during which evidence is called;
- Application which could result in a stay;
- Dangerous Offender hearings;
- Fitness hearings;

- 
- Pre-Trial motions (e.g. Charter applications, severance applications, change of venue, applications for disclosure);
 - Contested Breach of Conditional Sentence hearings.

First docket appearance made by Counsel and all other appearances to set date or for election and plea (this explanation applies to 1.24-1.31). Fee is inclusive of:

- All appearances to set dates or for election and plea;
- Obtaining disclosure;
- Defence Adjournments except as provided for under Tariff items 1.10 and 1.11;
- Negotiations with the police and Crown, including ECR steps;
- Preparation, including preparation of witnesses;
- Attendance

1.25 Trial-2nd to 10th half day

- \$375.00 (\$330.36)

Explanation: Please see 1.24

1.26 Trial-11th half day forward

- \$502.98 (\$441.96)

Explanation: Please see 1.24

1.27 Guilty Plea

- \$375.00 (\$330.36)

Explanation: Fee is inclusive of:

- All appearances to set dates or for election and plea;
- Obtaining disclosure;
- Defence adjournments except as provided for under Tariff items 1.10 and 1.11
- Negotiations with the police and Crown, including ECR steps
- Preparation, including preparation of witnesses
- Attendance.

1.28 Resolution through Early Case Resolution

- \$375.00 (\$330.36)

Explanation: Please see 1.27.

1.29 Guilty Plea on day of trial

- \$684.53 (\$602.68)

Explanation: Fee applies when a matter resolves by way of a guilty plea on the day of trial due to unforeseen circumstances, such as the non-attendance of a Crown witness. Counsel will have to provide a detailed explanation of attempts made to resolve the matter prior to the trial date and the reason why matters could be resolved on the trial date but not in advance.

1.30 Withdrawal of Charge with Notice to Counsel

- \$375.00 (\$330.36)

1.31 Withdrawal of Charge on day of trial without Notice to Counsel

- \$684.53(\$602.68)

Explanation: Fee applies only when the Crown opts to withdraw, stay, or call no evidence on all charges on the day of trial with no prior notice to Defence Counsel. Please see 1.27.



1.32 Speaking to Sentence

- \$125.00/hour (\$110.13/hour)-Maximum 4 hours per half day

Explanation: Fee is inclusive of preparation and attendance. Applies when the Court puts over the matter of Speaking to Sentence from the entry of the guilty plea or conviction and can be billed for each applicable half day.

1.33 Contested Post-Sentence Hearing-1st half day

- \$375.00 (\$330.36)

Explanation: Fee applies to post-sentence hearing conducted pursuant to the Youth Criminal Justice Act, DNA Order Applications, and SOIRA Hearings; the fee is inclusive of preparation and attendance.

1.34 Contested Post Sentence Hearing-2nd half day forward

- \$250.00 (\$220.24)

Explanation: Please see 1.32

1.35 Counsel withdraws from the Record

- \$125.00/hour (\$110.13/hour)-Maximum 2 hours

Explanation: Fee may be billed when no disposition fee applies to a set of charges to compensate for services normally inclusive in a disposition fee, including review of disclosure. Docket appearances not billable under Tariff 1.10, discussions with witnesses, police, or the Crown, etc. Counsel may be asked to itemize services provided. An attendance to withdraw is billable under Tariff 1.10 or 1.11 as applicable.

1.36 Charges waived out of the jurisdiction

- \$125.00/hour (\$110.13/hour)

Explanation: Please see 1.35

1.37 Multiple Charges

- \$125.00 per set of additional charges (\$110.13/set of additional charges)

Explanation: Fee applies when a Certificate covers charges that do not all stem from the same incident but are all resolved at the same appearance and is intended to compensate for the extra time required to review disclosure, interview the client, and other related steps. One fee is payable per set of circumstances. This Tariff can be billed to a maximum of 10 times per certificate. If the number of matters on the certificate exceeds 11 (1 for the basis of the guilty plea + 10 x 1.37), additional hours may be sought pursuant to Tariff 7.04 to compensate for the cap on the multiple charges tariff.

1.38 Level 3 Offences

- 10% increase

Explanation: When the most serious offence on a Certificate is a Level 3 offence, all fees (excluding travel time) are increased by 10%. This includes appeals.

1.39 Hourly Certificates

- \$125.00/hour (\$110.13/hour)-Maximum number of hours will be indicated on the Certificate.

Explanation: This Tariff applies only when a certificate indicates that you may bill hourly. For example, Board of Review, Institutional Matters, etc. Please note the File Opening Fee does not apply to Certificates issued under this Tariff.



Criminal Appeal Certificates

2.01 File Opening Fee

- \$135.29

Explanation: Payable on first account rendered on the Certificate. This fee is intended to compensate Counsel for steps associated with the opening and continuation of a file that are not compensable under any other Tariff, such as booking appointments with the client, preparing memos for the file, and providing instructions to legal assistants.

2.02 Attending and Speaking to the List

- \$125.00/hour (\$110.13/hour)-Maximum 1 hour

Explanation: Counsel is expected to avoid such appearances whenever possible.

2.03 Release pending appeal

- \$125.00/hour (\$110.13/hour)-Maximum 4 hours per Certificate

Explanation: Fee is inclusive of preparation and attendance.

2.04 Interlocutory Application-Preparation

- \$125.00/hour (\$110.13/hour)- Maximum of 4 hours per Certificate

2.05 Interlocutory Application-Appearance

- \$824.40 (\$720.78)

2.06 Interview with client-Summary Conviction or Sentence Appeal-Level 1 offence

- \$125.00/hour (\$110.13/hour)-Maximum 1 hour

Interview with client-Summary Conviction or Sentence Appeal-Level 2 offence

- \$125.00/hour (\$110.13/hour)-Maximum 3 hours

Interview with client-Summary Conviction or Sentence Appeal-Level 3 offence

- \$125.00/hour (\$110.13/hour)-Maximum 10 hours

2.07 Briefing-Summary Conviction or Sentence Appeal-Level 1 or Level 2 offence

- \$125.00/hour (\$110.13/hour)-Maximum 1 hour

2.08 Briefing-Summary Conviction or Sentence Appeal-Level 3 offence

- \$125.00/hour (\$110.13/hour)-Maximum 2.5 hours

2.09 Preparation-Summary Conviction or Sentence Appeal-All Levels of Offence

- \$125.00/hour (\$110.13/hour)-Maximum 10 hours

Explanation: Counsel may bill for all correspondence, drafting, filing and service for all documents including factum and briefing of law.

2.10 Appearance-Summary Conviction or Sentence Appeal-1st half day

- \$824.40 (\$720.78)

2.11 Appearance-Summary Conviction or Sentence Appeal-2nd half day forward

- \$410.71 (\$361.61)

2.12 Interview and Briefing-Conviction Appeal in Court of Appeal or SCC-Level 1 offence



- \$250.00 (\$220.24)
Interviewing and Briefing-Conviction Appeal in Court of Appeal or SCC-level 2 offence
- \$687.50 (\$598.89)
Interview and Briefing-Conviction Appeal in Court of Appeal or SCC-Level 3 offence
- \$2500.00 (\$2202.38)

Explanation: Fee is inclusive of interview time with client as well as all briefing.

- 2.13** Preparation-Conviction Appeal or Denial of Extraordinary Remedy-Trial lasted one day or less
- \$125.00/hour (\$110.13/hour)-Maximum 25 hours

Explanation: Please see 2.09.

- 2.14** Preparation-Conviction Appeal or Denial of Extraordinary Remedy-Trial lasted more than one day, up to 5 days
- \$125.00/hour (\$110.13/hour)-Maximum 25 hours

Explanation: Please see 2.09

- 2.15** Preparation-Conviction Appeal or Denial of Extraordinary Remedy-Trial lasted more than 5 days
- \$125.00/hour (\$110.13/hour)-Maximum 25 hours per 5 days (or portion thereof) of original trial

Explanation: Please see 2.09.

- 2.16** Appearance-1st half day in the Court of Appeal
- \$869.05 (\$764.88)

- 2.17** Appearance-each additional half day in the Court of Appeal
- \$410.71 (\$361.61)

- 2.18** Preparation for Interlocutory/Leave Application in the Supreme Court of Canada
- \$1845.24 (\$1625.00)

Explanation. Please see 2.09.


- 2.19** Any Appearance in the Supreme Court of Canada
- \$1845.24 (\$1625.00)

- 2.20** Waiting Time in Court of Appeal when Counsel has no other matters
- \$125.00/hour (\$110.13/hour)-Maximum 2 hours per half day on the Certificate, any other Certificate, or a private matter.

Extra Tariff Items -Civil and Criminal

Some clients will require legal services or disbursements that are not specifically authorized under the Tariff. Lawyers may request funding for these services or disbursements on behalf of their clients. In these cases, LAA will make a discretionary decision about whether to fund a legal issue, an application, additional lawyer preparation time, an expert, or some other step on the certificate matter.

When LAA decides whether to grant a discretionary funding request, LAA's goal is to use the legal aid plan's resources responsibly – allowing LAA to assist the most Albertans possible – while also ensuring that LAA's clients receive competent and effective legal assistance that is proportionate to the seriousness and complexity of the legal problems the client faces.



LAA relies on roster lawyers' representations when it makes discretionary funding decisions. Although LAA will review a lawyer's request, in most cases, LAA cannot independently confirm information about a client's circumstances. Accordingly, when roster lawyers make discretionary funding requests, they must act in good faith and must:

- (a) provide candid and reasonably complete information about the relevant circumstances that pertain to Authorization Requests; and
- (b) provide their reasonable professional opinion about clients' circumstances and legal needs

The following Extra Tariff Items require prior approval by Legal Aid Alberta:

7.01 Additional Bail Applications

- \$250.00 (\$220.24)

Explanation: Fee is inclusive of preparation and appearance. Tariff 1.09 also applies. The Tariffs only allow for one Bail Application in the Court of King's Bench. If Counsel is of the opinion that a subsequent QB Bail Application is warranted, Counsel may request coverage for same by indicating:

- (a) Why a subsequent bail application is warranted, and;
- (b) A very brief Opinion statement on the likelihood of success.

7.02 Additional Special Chambers Applications

- \$125.00/hour (\$110.13/hour) – Maximum 6 hours or as authorized

Explanation: Counsel may bill for preparation of documents, general preparation for appearance, and attendance at Application. The Tariff allows only one Special Chambers Application as Applicant. If Counsel is of the opinion a subsequent Special Chambers Application is warranted, Counsel may request coverage for same by indicating:

- (a) the issues dealt with in the earlier Special Chambers Application(s) and the outcome of that Application(s);
- (b) issues to be resolved at the subsequent Special Chambers Application; and
- (c) a very brief Opinion statement on the likelihood of success.


Six hours for preparation, drafting documents and attendance is generally granted for a Special Chambers Application; if Counsel is of the Opinion more time is necessary, Counsel should indicate how many hours are requested and provide an explanation as to why the matter is expected to be more time consuming than a standard application.

7.03 Additional Regular Chambers Applications

- \$125.00/hour (\$110.13/hour)

Explanation: Minimum of one hour for appearance; additional hours for preparation as authorized. The Tariff allows only two Regular Chambers Applications as Applicant. If Counsel is of the opinion a subsequent Regular Chambers Application is warranted, Counsel may request coverage for same by indicating:

- (a) the issues dealt with in the earlier Regular Chambers Applications and the outcome of those Applications;
- (b) issues to be resolved at the subsequent Regular Chambers Application;
- (c) a very brief Opinion statement on the likelihood of success; and an indication of whether additional hours for preparation are required under Base Civil Coverage and if so, and explanation of how many hours are required and how those hours will be used.



7.04 Additional Hours-Criminal Certificate

- \$125.00/hour (\$110.13/hour)-Maximum hours as authorized

Explanation: The Tariff includes interview time with the client and legal briefing under Tariff 1.06, and for correspondence, disclosure review, preparation for Court, and other such steps under the applicable disposition Tariff. If Counsel is of the opinion that additional hours as required for any steps, Counsel may request coverage for same by indicating:

- (a) How many additional hours are being requested;
 - (b) A breakdown of how the additional hours will be used;
 - (c) An explanation of why additional hours are necessary, and;
 - (d) An explanation of how any additional hours previously approved on the Certificate were used.
-
- (a) If LAA grants an authorization request allowing for additional preparation time on a certificate matter beyond what is already authorized by the Tariff (“extra hours”):
 - (b) the extra hours are paid at the standard hourly rate set out in the Tariff;
 - (c) the lawyer must maintain timekeeping records to document the time spent working on the client’s matter and how that time was used, and the lawyer must provide these records to LAA, upon request;
 - (d) the extra hours authorization is not a block fee or flat rate that the lawyer may charge in the matter, and the lawyer may only submit an account for the actual time the lawyer has worked on the matter.

Please note: LAA will determine additional hours based on what is “reasonably necessary” in the circumstances.

If a lawyer believes that it is necessary to perform services (or incur a disbursement) in order to properly represent a client in relation to a certificate matter, but:

- (a) the Tariff does not specifically authorize the services (or the disbursement);
- (b) the Tariff allows a lawyer to bill a certain number of hours in relation to a specific Tariff item, but the lawyer believes they require additional time beyond the default number of hours permitted by that Tariff item;
- (c) coverage for the service (or the disbursement) is discretionary under the Tariff, under LAA policy, or under a condition attached to a certificate; or (d) the certificate is less-than-full scope and does not cover those services (or disbursements),

The lawyer may submit an Authorization Request through the Lawyer Portal seeking LAA’s approval for the services (or the disbursement).

LAA may authorize some, all, or none of the coverage a lawyer seeks through an Authorization Request. When deciding whether to grant an Authorization Request, LAA will consider whether a reasonable person of modest means, who was funding the matter using the client’s own resources, would have the lawyer perform those services (or would incur the disbursement).

LAA may also consider:

- (a) the potential benefit or advantage the client stands to gain from the legal services (or disbursement) being requested;



if the services (or disbursement) relate to a specific legal issue or legal argument, the importance that issue or argument would have to a reasonable person of modest means who was in a similar position as the client;

- (b) the likelihood of success of any legal argument or application that relates to the additional services (or disbursement);
- (c) how the lawyer has used any time that is permitted by the Tariff or that was granted in response to earlier Authorization Requests;
- (d) whether the services (or disbursement) the lawyer is requesting appear to reflect a reasonable estimate of the time (or expense) associated with the services (or disbursement);
- (e) whether there are any reasonable alternatives to the services (or disbursement) being requested, and whether the lawyer has adequately investigated those alternatives;
- (f) whether a block Tariff item already compensates the lawyer for any related services;
- (g) the type of certificate under which the lawyer is representing the client and the usual expectations regarding the nature or scope of the lawyer's representation under that kind of certificate;
- (h) whether a legal issue that arises in the client's case is important to LAA's clientele, and if so, whether approving the Authorization Request could benefit other LAA clients; and
- (i) any other criteria set out in an internal policy or guideline that LAA establishes for a specific legal issue, service area, or category of disbursement.

When considering an Authorization Request, LAA may require the lawyer or the client to provide additional information to assess the lawyer's request. This includes, for example:


- (a) details about any legal or factual issue relevant to the Authorization Request;
- (b) timekeeping records documenting the lawyer's work on the file;
- (c) a plan detailing how the lawyer intends to use any additional preparation time; or
- (d) quotes or estimates from experts or anyone else the lawyer hopes to retain.

Considerations when submitting requests for Additional Hours:

Please consider whether the "task" or reason you are asking for additional hours is included within the tariff block fees [from the Tariff] as below:

- Interviewing and Briefing (1.06): includes meeting with client and getting instructions;
- Trial Tariffs (1.24 – 1.26): includes disclosure review, discussion with Crown, case law research, preparation for cross-examination, preparation of client to testify & attendance at the trial;
- Guilty plea (1.27) or ECR (1.28): includes disclosure review, negotiation with Crown, case law research, preparation for sentencing or guilty plea entry & attendance;
- Guilty Plea on Day of Trial (1.29): includes disclosure review, negotiation with Crown, case law research, preparation for sentencing or guilty plea entry & attendance;
- Speaking to Sentence (1.32): if the sentencing proceeds on a separate day from the guilty plea this tariff is available and includes preparation for sentencing, research & attendance;
- Written Argument where ordered by the Court (1.21): preparation of written submissions when they are ordered by the court

Written Argument where not ordered by the Court (1.22): preparation of written submissions when they are not ordered (i.e., Charter Notices)



If additional hours are still needed, when submitting your additional hours request under tariff 7.04 (criminal additional hours), please consider and include the following information in your request:

Additional hours requests and approval must be tied to a specific legal or client issue which needs to be addressed above and beyond the tariff block items.

- What stage is the file at (reviewing disclosure to determine course; prelim; trial; ECR or guilty plea; sentencing, etc.)?
- Summary of the allegations (specific details of allegations or crown theory of case); Please note "charged with assault with a weapon" is not specific enough
- If requesting hours for disclosure review, a summary of the allegations is more helpful than describing the length of the disclosure. Please consider including, in addition to the summary of the allegations:
 - How many complainant statements?
 - Witness statements?
 - Lengthy investigation?
 - What is the defence plan or triable issues identified at this stage of the file?
- Crown position on sentencing versus defence position?
- How many days of prelim or trial?
- If prelim, what are the issues that the prelim is proceeding on? Challenging committal?
- If trial, what is the defence plan for trial:
 - Is the accused testifying?
 - Are there Charter issues and what are the specifics?
 - How many statements of the complainant to compare for cross-examination?
 - Challenging credibility of any officers?
 - Pre-trial applications (like Charter) and their specifics;
 - Witness lists;
 - Any defence witnesses to be called and how they fit into the case;
 - Crown position or theory versus defence theory;
 - Crown position on sentencing if known;
 - Any extraordinary legal or client issues that have arisen;


7.05 Additional hours – Civil Certificate

- \$125.00/hour (\$110.13/hour) – Maximum hours as authorized

Explanation: The Tariff provides Counsel with set numbers of hours for Base Civil Coverage, for other steps taken on civil matters, as well as for Civil Appeals. If Counsel is of the Opinion that additional hours are required for Base Civil Coverage or any other steps including on appeals, the following information must be included.

Family Certificates:

- What alternate dispute resolution processes have been attempted, including 4-way settlement meetings?
- What issues have been resolved?
- Describe for each court application/appearance the following:
 - Applicant or respondent?
 - What was the relief sought? What was the outcome?
 - If the matter was adjourned, why was it adjourned?


- 
- What challenges/stumbling blocks have affected getting the file concluded within the hours provided on the certificate to date? (ex. Language barriers, mental health issues, child welfare involvement, substance abuse allegations, opposing party self-represented)
 - Is the file in Case Management? If yes how many Case Management meetings have there been?
 - What are the outstanding issues? What are the positions of each of the parties?
 - What recommendations have you suggested to the client to conclude the outstanding issues?
 - Is the client's position realistic? Is the client willing to compromise?
 - What stage are the proceedings at? For example, examination for discovery completed, Pretrial conference scheduled etc.
 - If property division is at issue, what is the total value of the net matrimonial property available for distribution? Please provide property statement if available.
 - What is your plan to move the file to resolution/conclusion?
 - Is the client aware of their legal costs to date?
 - Has the client approved your request for additional hours?
 - If you were previously told that no more hours would be approved, what unforeseen or exceptional circumstances have arisen since the last request to justify further hours?

Child Welfare Certificates:

- How many children are involved?
- How many parties are involved? How many lawyers are involved?
- How many docket court appearances have there been, and what happened at each appearance? If matter was adjourned explain why
- How many JDR's or Pre-Trial Conferences have there been?
- Have there been any 4-way meetings with the Director? What are the obstacles to resolution?
- Have there been any access issues? Please describe
- Is the client engaged in the process? What steps has the client taken to address the child protection concerns raised by CFS. Please explain
- Is the client being reasonable in addressing child protection concerns? Please explain.
- Does the client have a lengthy history with CFS? Briefly describe
- How much disclosure is there? Has it already been reviewed once?
- Has an assessment by CFS been done? What are the recommendations? What do you feel you need to challenge and why?
- Have trial dates been set? How many days?
- How many witnesses do you intend to call, and how many expert witnesses will there be?

Children's Counsel

- How many children are involved?
- How many meetings with the children have there been and over what time period? How many court appearances have there been, and what was the result?
- How many third parties have been interviewed (ex. School principal, counsellor)
- How many reports/letters have been prepared for the court?
- Have you conducted any settlement meetings? How many and with what result
- Who is driving the litigation?
- How much direct contact have you had with the parties? (i.e. have there been excessive emails or phone calls?)
- Is the file in Case Management?

- 
- Are one or both of the parties self-represented?
 - Is there or will there be a Voice of the Child Report? What were the recommendations? What is still preventing the parties from reaching an agreement?

Immigration Certificates:

- Summary of the history of the client's immigration history;
- Hearing Dates and any adjournments of hearings (and reason for adjournment) or continuations.
- What are the main issues for the hearing (whatever type)?
- What is a summary of CBSA's case against the client or the evidence they seek to rely on?
- What is a brief summary of the client's situation or response to the proposed evidence?
- Inadmissibility or detention review due to criminal convictions or behavior evidence?
- Identity Issues?
- What documents or claims is the client relying on?
- What outcome is the client seeking?
- What outcome is CBSA seeking if not obvious?

Additional hours requested when added to the base hours on the certificate may NOT exceed double the hours listed below:

- Admissibility Hearings – 12 hours
- Detention Reviews – 3 hours
- Refugee Claims – 12 hours
- Refugee Appeals – 25 hours
- Judicial Reviews of refugee claims – 25 hours
- Removal Appeals – 25 hours

Mental Health Certificates:

- Nature of the application
- Summary of the client's circumstances and mental health history
- Summary of the anticipated evidence to be presented at the hearing
- Reasons additional hours in excess of the tariff are required. Please note, a detailed explanation is required.

Additional information:

These guidelines have been put in place to ensure accurate documentation and tracking of additional hour requests and how additional hours are being used. Remember to track your time! Requests that do not contain sufficient information to justify the additional hours will not be approved. You will be asked to resubmit the request with more information.

Please note that additional hours are not guaranteed on any certificate.

TIME RECORDS MUST BE ATTACHED TO YOUR REQUEST.



Retroactive Authorization Requests

Authorization Requests Must be Submitted in Advance of Performing Work for Clients. In general, LAA will not reimburse lawyers for any legal services that were performed (or disbursements that were expended) on behalf of a client if the services (or disbursements) were not specifically authorized by the Tariff, or if the services (or disbursements) were not requested and approved in advance, by way of an Authorization Request.

LAA may approve a retroactive Authorization Request for legal services (or a disbursement) and reimburse a lawyer for some or all the retroactive services (or disbursement), but only if:

- (a) one of the exceptions set out in this Part applies; or
- (b) an exception does not apply, but there are other exceptional circumstances where the lawyer made reasonable and good-faith efforts to adhere to the discretionary authorization process and failing to reimburse the lawyer would cause substantial unfairness to the lawyer.

Exceptions – Retroactive Authorization Requests

LAA may approve a retroactive Authorization Request if:

- (a) it was reasonably necessary to perform the services (or expend the disbursement) to protect the client's position or the client's interests;
- (b) the lawyer could not have reasonably anticipated the need to submit an Authorization Request at an earlier stage of proceedings; and
- (c) the lawyer promptly submitted a retroactive Authorization Request after they performed the services (or expended the disbursement).

LAA may approve a retroactive Authorization Request if:

- (a) the lawyer submitted an Authorization Request before performing those services (or expending the disbursement);
- (b) the services (or disbursement) were reasonably necessary the circumstances; and
- (c) LAA had not yet responded to the lawyer's Authorization Request when the lawyer performed the services (or expended the disbursement).

7.06: Travel Costs not anticipated at time of Certificate Issuance

- As authorized

Explanation: If circumstances arise that change travel requirements on a Certificate, Counsel may request coverage for travel by indicating:

- (a) Why travel is required;
- (b) Details of travel, including where Counsel will be travelling from and to, what method
- (c) of travel will be used, and whether accommodations will be necessary;
- (d) Break down of the associated costs.
- (e)


* Please contact Taxation (taxation@legalaid.ab.ca) for travel-related inquiries.

7.07 Watching Briefs

- \$125.00/hour (\$110.13/hour)-Maximum 2.5 hours per half day

Explanation: If Counsel is of the opinion that it would be beneficial to a client's matter if Counsel attended a related Court proceeding, Counsel may request coverage for same by indicating:

- (a) what proceedings Counsel wishes to observe;

- 
- (b) how the proceedings are related to the client's matter;
 - (c) how it would benefit the client's matter to have Counsel observe the other proceedings;
 - (d) The expected duration of the other proceedings.

7.08 Other

- As authorized

Explanation: If Counsel of the opinion that an Extra Tariff of a nature not outlined is necessary, Counsel may request coverage for same by providing full details of what is being requested and an explanation of why the additional coverage is warranted.

Discretionary Case Collapse Fees

LAA does not ordinarily pay for lost trial or hearing time that a lawyer expected to be able to bill under the Tariff. LAA may compensate a lawyer if a matter unexpectedly fails to proceed and if the case was subsequently concluded without a trial or hearing (that is, the matter was not merely adjourned). When deciding whether to grant a lawyer's Authorization Request in these circumstances, and when deciding how much to compensate the lawyer, LAA may consider:

- (a) the reason the trial or hearing did not proceed;
- (b) how much time the anticipated trial or hearing took up in the lawyer's calendar;
- (c) the amount of notice the lawyer received that the trial or hearing would not proceed;
- (d) whether, with the exercise of due diligence, the lawyer might have had more notice that the trial or hearing would not proceed;
- (e) whether the lawyer can be reasonably expected to use time that was scheduled for the trial or hearing for other matters or for other remunerative work; and
- (f) the actual time the lawyer expended in preparation for the trial or hearing that would have been compensated by a block Tariff item if the trial or hearing had proceeded, but that the lawyer is now unable to bill under any other Tariff item.

Despite the preceding section, LAA will not compensate a lawyer for lost trial or hearing time:


- (a) when the trial or hearing that did not proceed was scheduled to last fewer than five business days; or
- (b) when the lawyer had more than six months' notice that the trial or hearing would not proceed, except in extraordinary circumstances and with the approval of the CEO.

Second Counsel Only Authorized in Exceptional Circumstances

Certificates are issued to a single lawyer, and LAA does not issue concurrent certificates so that more than one lawyer may act for a client in the same matter.

LAA recognizes that unusual or particularly complex files sometimes require the involvement of more than one lawyer. Accordingly, in exceptional circumstances and where there is a demonstrable need for the assistance of a second lawyer on a file, LAA may grant an Authorization Request for extra hours on a certificate on the condition that these hours be used to compensate a second lawyer for that lawyer's involvement in the matter, including involvement at trial or in a special chambers hearing. If LAA grants an Authorization Request permitting second lawyer on a matter:

- (a) the client must consent to the second lawyer's involvement in the matter;
- (b) the second lawyer's involvement is subject to the usual requirements surrounding the involvement of a second lawyer, as set out in Part 1 of this policy;

- 
- (c) the additional hours are subject to the usual requirements for extra hours, as defined in this Part; and
 - (d) LAA may impose additional conditions on the involvement of the second lawyer. 3.24 LAA may also grant a training, mentorship, or “second chair” certificate to allow a lawyer to gain experience in a legal area, under the direct, personal supervision of another lawyer, on such terms or conditions as LAA may specify

Ordinary Disbursements

8.02B Kilometrage

Explanation: Where travel is authorized, it will be paid in accordance with the Legal Aid Alberta Travel Calculation Method in place at the time of Certificate Issuance.

Exception: If travel was not authorized on the original Certificate and a Change of Counsel is approved after February 01, 2020, travel will not automatically be authorized on the new Certificate when issued.

8.03 Travel to Ottawa for SCC Appeal, including all Travel Waiting Time

- \$800

8.04 Parking

You may bill under this Tariff up to a maximum of \$300. If no GST applies, use Tariff 8.24.

8.05 Accommodation and Meals

- Actual cost

Explanation: Counsel should be mindful of the fact that clients are individuals of modest financial means and ensure that all expenses incurred are reasonable, Actual/reasonable expenses can be claimed with receipt attached or if not attached, the receipt can be made available upon the request of Legal Aid Alberta.

Counsel is reminded that Legal Aid Alberta will not pay for meals for guests or clients. Alcoholic beverages are not an allowable expense.

8.06 Airfare and other Transportation

- Actual Cost

8.07 Filing Fees

- Actual Cost

Explanation: Please note, filing fees are waived by the Clerk of the Court upon presentation of the Legal Aid Alberta Certificate.

8.08 Process Servers

- Actual Cost

Explanation: A maximum of \$300 can be billed out under this Tariff.

8.09 Conduct money for Ordinary Witnesses



Explanation: Witnesses must reside within 300 kms of the place of trial. A maximum of five witnesses are allowed under this tariff. If these criteria are not met, prior approval must be sought under Tariff 9.07.

8.10 Appeal Books Where Coverage is Granted for the Appeal

- Actual Cost

8.11 Transcripts of Any Examinations or Bail Applications

- Actual Cost

Explanation: This Tariff includes all transcripts ordered on a 30-day turnaround and expedited bail transcripts. This Tariff excludes all other expedited transcripts. Prior approval must be sought for all expedited transcripts, except bail under Tariff 9.09.

If no GST applies, use Tariff 8.26.

8.12 Photocopies

- \$.10/page

Explanation: Counsel may also bill for actual cost paid to an outside agency. There is a \$500 limit for photocopies and \$1000 limit for photocopies done by an outside printing service.

8.13 Fax Charges

- Actual Cost

Explanation: Counsel may ONLY bill for actual cost paid to an outside agency.

8.14 Agent

- Actual Cost

Explanation: Primary Counsel is expected to make appearances. However, if an agent is required, Counsel must bill the agent's fees under this Tariff as if the services had been performed by Counsel. Counsel is required to use the services of agents located in the locale of the Court, such that travel time and expenses will not be reimbursed. In the event that Counsel cannot locate an agent in the locale of the Court, Counsel should contact the Regional Office responsible for the locale of Court for assistance or to seek coverage for travel expenses.

8.15 Medical Report

- Actual Cost

Explanation: The Maximum amount allowed under this tariff is \$250. Prior approval must be sought for expenses that exceed \$250 under Tariff 9.01. This Tariff can be used for items such as hospital records. This Tariff does not include expert reports.

8.16 Miscellaneous

- Actual Cost

Explanation: Maximum of \$150 allowed for 8.16 and 8.17 together. Counsel may not bill under this item for disbursements that require prior approval as Special Disbursements. Costs that may be included under this Tariff are Court search fees, etc.

Please ensure to retain your receipt and attach it to the invoice.

8.17 Miscellaneous-no GST applies

- Actual Cost

8.18 Postage

- Actual Cost

Explanation: Maximum of \$200 allowed.

8.19 Runners, Long Distance, Long Distance Faxes

- Actual Cost

Explanation: Maximum of \$300 allowed.

8.20 Courier Charges

- Actual Cost-applicable only when couriering is deemed necessary.

Explanation: Maximum of \$300 allowed. 8.20

8.21 Translation and Interpretation Expenses

- Actual Cost

Explanation: Maximum allowed is \$150; prior approval must be sought for expenses in excess of \$150 under tariff 9.11. On Immigration Certificates only, ordinary disbursement includes translation and interpretation expenses up to \$2000. Transcription media documents by an outside agency may be claimed under this Tariff.

If no GST applies, use Tariff 8.28.

8.22 Computer Law Searches

- Actual Cost

Explanation: Maximum of \$25 per Certificate.

Special Disbursements-Regular Certificate Matters

9.01 Experts

- Actual Cost-If no GST applies, use Tariff 9.14.


Explanation: If Counsel is of the opinion that a report from an expert is necessary to a client's matter, Counsel may request approval for the cost of same, indicating:

- The name and area of expertise of the expert;
- The nature of the analysis to be undertaken by the expert;
- An explanation as to why a report from the expert will be beneficial to the client's matter; and,
- A detailed breakdown of the cost of obtaining the expert's report, including the hourly rate of the expert, the number of hours the expert requires, and the steps to be taken by the expert

*Please note, the expert's *Curriculum vitae* and quote (indicating hourly rate/hours required) must be submitted as part of the authorization request.

LAA will not authorize expert or professional fees that exceed the following maximum rates:

Expert / Professional	Amount / Rate
Registered Psychologists	up to \$155.00 per hour
Physicians – General Practitioners	up to \$180.00 per hour
Other Physicians, Including Psychiatrists	up to \$200.00 per hour
Other Experts, Professionals, or Investigators	up to \$115.00 per hour



In extraordinary circumstances and with the approval of the CEO, LAA may authorize expert or professional fees that exceed the guidelines in the preceding section, but only if:

- (a) the fees are sought in a criminal law matter or a child welfare matter;
- (b) LAA is satisfied it is necessary to pay higher expert or professional fees to ensure the client receives a fair trial; and
- (c) LAA is satisfied that the fees being sought are no greater than required to ensure a fair trial.

It is the lawyer's responsibility to ensure that an expert, or anyone else who the lawyer retains on behalf of the client, understand the terms, conditions, or limits upon which LAA has approved funding for a disbursement. This includes, for example, limits on an expert's hourly rate or the number of hours an expert has been authorized to work on the file.

When a client is represented by a roster lawyer, the contractual relationship with an expert – or anyone else who the lawyer retains on behalf of the client – is between that person and the roster lawyer or the client not between that person and LAA.

If LAA authorizes a disbursement, and if the actual disbursement exceeds the amount that LAA has authorized, LAA may decline to reimburse the roster lawyer for any excess amount.

9.02 Expert Witness Fees.

- Actual Cost. If no GST applies, use Tariff 9.15.

Explanation: If Counsel is of the opinion that evidence from an expert is necessary at a Court proceeding, Counsel may request approval for the cost of same, indicating:

- (a) The name and area of expertise of the expert;
- (b) The nature of the analysis to be undertaken by the expert;
- (c) An explanation as to why a report from the expert will be beneficial to the client's matter; and,
- (d) A detailed breakdown of the cost of obtaining the expert's report, including the hourly rate of the expert, the number of hours the expert requires, and the steps to be taken by the expert

9.03 Property Appraisals

Explanation: If Counsel is of the opinion that an assessment of the value of property is required, Counsel may request approval for the cost of same, indicating:


- (a) The property to be appraised;
- (b) Who will be completing the appraisal;
- (c) The cost of the appraisal; and,
- (d) An explanation of whether the Opposing Party will be sharing in the cost of the appraisal, and if not, why not.

9.04 Unusual Transportation

Explanation: If Counsel must travel in the course of a matter, and such travel is not possible by automobile or a standard commercial travel carrier, Counsel may request approval for the cost of same, indicating details of the travel required and a breakdown of the associated costs.

9.05 Maps, Models, and other Physical Exhibits

Explanation: If Counsel is of the opinion that a map, model, or other physical exhibit is necessary to a client's matter, Counsel may request approval for the cost of same, indicating the nature of the exhibit required, who will be preparing the exhibit, and a breakdown of the cost.



9.06 Agent outside of Alberta

Explanation: If Counsel requires the services of a legal agent outside of the province of Alberta, Counsel may request approval for the cost of same, including:

- (a) The name of the agent;
- (b) The services to be provided by the agent and why the services are necessary; and
- (c) A breakdown of the cost of the agent's services including the agent's hourly rate and the number of hours required.

9.07 Conduct Money for Extraordinary Witnesses (excluded by Tariff 8.09)

9.08 Records or Statements (including medical)

Explanation: Maximum of \$250.00.

Note: Paternal DNA Testing can be requested under this tariff item.

9.09 Transcripts and All Expedited Transcripts (except as included in Tariff 8.11)

- If no GST applies, use Tariff 9.13

Explanation: If Counsel is of the opinion that transcripts of a proceeding are required, Counsel may request approval for the cost of same, indicating:

- (a) The proceedings for which transcripts are required;
- (b) An explanation of why the transcripts are necessary;
- (c) The cost of obtaining the transcripts (estimate)
- (d) If Counsel is intending to request the transcripts on an expedited basis, an explanation of why the transcripts are required on an urgent basis.

Prior approval is required for expedited transcripts. When submitting a request, ensure to provide an estimate for the cost of the transcripts with your request. If the actual cost of transcripts differs from the estimate, please advise Legal Aid Alberta once the actual cost is known.

9.10 Newspaper Ads for Substitutional Service

*Not applicable to criminal certificates.

9.11 Translation and Interpretation Services (in excess of \$150.00)

Explanation: If Counsel is of the opinion that translation or interpretation services are required, Counsel may request the approval for the cost of same, indicating:

- (a) the name of the translator/interpreter to be used;
- (b) if documents are to be translated, a description of the documents and why they are necessary to the client's matter;
- (c) if oral interpretation is to be provided, an explanation of what will be interpreted;
- (d) a breakdown of the cost of the services, including the applicable hourly rate or rate by document.

9.12 Other

- All items as Authorized on Special Disbursement.

Explanation: If Counsel is of the opinion that any other disbursements not covered by an Ordinary or Special Disbursement is required, Counsel may request approval for the cost of same, indicating the nature of the expense and a breakdown of the cost.

Appendix B: Reference Chart for request reasons and supporting documentation required for Authorization Requests

Criminal Certificates

Authorization Request	Request Reasons	Required Supporting Documentation
7.04-Additional Hours	<p>Additional hours requests and approval must be tied to a specific legal or client issue which needs to be addressed above and beyond the tariff block items.</p> <ul style="list-style-type: none"> • What stage is the file at (reviewing disclosure to determine course; prelim; trial; ECR or guilty plea; sentencing, etc.)? • Summary of the allegations (specific details of allegations or crown theory of case) <p>*Please note "charged with assault with a weapon" is not specific enough</p> <ul style="list-style-type: none"> • If requesting hours for disclosure review, a summary of the allegations is more helpful than describing the length of the disclosure. Please consider including, in addition to the summary of the allegations: <ul style="list-style-type: none"> o How many complainant statements? o Witness statements? o Lengthy investigation? o What is the defence plan or triable issues identified at this stage of the file? • Crown position on sentencing versus defence position? • How many days of prelim or trial? • If prelim, what are the issues that the prelim is proceeding on? Challenging committal? • If trial, what is the defence plan for trial: <ul style="list-style-type: none"> o Is the accused testifying? o Are there Charter issues and what are the specifics? o How many statements of the complainant to compare for cross-examination? o Challenging credibility of any officers? 	Timekeeping records



	<ul style="list-style-type: none"> o Pre-trial applications (like Charter) and their specifics; o Witness lists; o Any defence witnesses to be called and how they fit into the case; o Crown position or theory versus defence theory; o Crown position on sentencing if known; o Any extraordinary legal or client issues that have arisen; 	
8.12-Photocopies	<p>Any explanation as to why photocopy services from an outside agency are required Volume of photocopies required</p> <p><i>*This information is only required if the cost exceeds \$1000.00 (for an outside service) and requires approval</i></p>	Quote of cost if obtaining services from an outside service
8.15-Medical Report	<p>Provide overview of the file-facts/legal issues/evidentiary issues/client issues, etc. An explanation why medical reports are required</p> <p><i>*This information is only required if the cost exceeds \$250 and requires approval</i></p>	Quote of cost if the amount exceeds \$250 and requires approval
9.01-Experts	<p>Provide overview of the file-facts/legal issues/evidentiary issues/client issues, etc. An explanation why an expert is required Description of Expert's services Expert's rate/number of hours required</p>	Quote outlining hourly rate and number of hours required Expert's curriculum vitae Explanation of why Expert is needed
9.02-Expert Witness Fees	<p>Provide overview of the file-facts/legal issues/evidentiary issues/client issues, etc. An explanation why an expert is required Description of Expert's services Expert's rate/number of hours required</p>	Quote outlining hourly rate and number of hours required Expert's curriculum vitae Explanation of why Expert is needed
9.06-Agent Outside of Alberta	<p>Provide overview of the file-facts/legal issues/evidentiary issues/client issues, etc. An explanation why an agent outside of Alberta is required Description of services Hourly rate and number of hours required (if applicable)</p>	Upon approval, invoices are required for cost of service



9.09-Transcripts and All Expedited Transcripts (except as included in Tariff 8.11)	Provide overview of the file-facts/legal issues/evidentiary issues/client issues, etc. An explanation of why transcripts are required on an expedited basis What turnaround time you are seeking (2, 5, 10 days)	Quote of cost
9.11-Translation and Interpretation Services	Provide overview of the file-facts/legal issues/evidentiary issues/client issues, etc. The name of the translator/interpreter to be used If documents are to be translated, a description of the documents and why they are necessary to the client's matter If oral interpretation is to be provided, an explanation of what will be interpreted A breakdown of the cost of the services, including the applicable hourly rate or rate by document <i>*This information is only required if the cost exceeds \$150 and requires approval for criminal matters</i>	Quote of cost (hourly rate/hours required) if cost exceeds \$150 and requires prior approval For immigration matters, quote of cost is required if cost exceeds \$2000 and requires prior approval
9.12-Other	Provide overview of the file-facts/legal issues/evidentiary issues/client issues, etc. Description of request and why it is needed Estimate of cost	Quote of cost

Immigration Certificates

Authorization Request	Request Reasons	Required supporting documentation
7.05- Additional Hours-Civil	Summary of the history of the client's immigration history; Hearing Dates and any adjournments of hearings (and reason for adjournment) or continuations. What are the main issues for the hearing (whatever type)? What is a summary of CBSA's case against the client or the evidence they seek to rely on? Provide a brief summary of the client's situation or response to the proposed evidence. Is there inadmissibility or detention review due to criminal convictions or behavior evidence? Identity Issues? What documents or claims is the client relying on? What outcome is the client seeking? What outcome is CBSA seeking if not obvious?	
9.11- Translation and Interpretation Services	Provide overview of the file-facts/legal issues/evidentiary issues/client issues, etc. The name of the translator/interpreter to be used	Quote of cost



	<p>If documents are to be translated, a description of the documents and why they are necessary to the client's matter</p> <p>If oral interpretation is to be provided, an explanation of what will be interpreted</p> <p>A breakdown of the cost of the services, including the applicable hourly rate or rate by document</p> <p><i>*This information is only required in the amount exceeds \$3000 for immigration matters are prior approval is required.</i></p>	
--	---	--

Mental Health Certificates

Authorization Request	Request Reasons	Required supporting documentation
7.05-Additional Hours-Civil	<p>What stage is the file at</p> <p>Summary of the evidence</p> <p>Nature of application</p> <p>Why additional hours are required. Please note, a detailed explanation is required.</p>	

Family Certificates

Authorization Request	Request Reasons	Required supporting documentation
7.05-Additional Hours-Civil	<ul style="list-style-type: none"> • What alternate dispute resolution processes have been attempted, including 4-way settlement meetings? • What issues have been resolved? • Describe for each court application/appearance the following: <ul style="list-style-type: none"> • Applicant or respondent? • What was the relief sought? What was the outcome? • If the matter was adjourned, why was it adjourned? • What challenges/stumbling blocks have affected getting the file concluded within the hours provided on the certificate to date? (ex. Language barriers, mental health issues, child welfare involvement, substance abuse allegations, opposing party self-represented) • Is the file in Case Management? If yes how many Case Management meetings have there been? • What are the outstanding issues? What are the positions of each of the parties? • What recommendations have you suggested to the client to conclude the outstanding issues? • Is the client's position realistic? Is the client willing to compromise? 	



	<ul style="list-style-type: none"> • What stage are the proceedings at? For example, examination for discovery completed, Pretrial conference scheduled etc. • If property division is at issue, what is the total value of the net matrimonial property available for distribution? Please provide property statement if available. • What is your plan to move the file to resolution/conclusion? • Is the client aware of their legal costs to date? • Has the client approved your request for additional hours? • If you were previously told that no more hours would be approved, what unforeseen or exceptional circumstances have arisen since the last request to justify further hours? 	
--	--	--

Child Welfare Certificates

Authorization Request	Request Reasons	Required supporting documentation
7.05-Additional Hours-Civil	<ul style="list-style-type: none"> • How many children are involved? • How many parties are involved? How many lawyers are involved? • How many docket court appearances have there been, and what happened at each appearance? If matter was adjourned explain why • How many JDR's or Pre-Trial Conferences have there been? • Have there been any 4-way meetings with the Director? What are the obstacles to resolution? • Have there been any access issues? Please describe • Is the client engaged in the process? What steps has the client taken to address the child protection concerns raised by CFS. Please explain • Is the client being reasonable in addressing child protection concerns? Please explain. • Does the client have a lengthy history with CFS? Briefly describe • How much disclosure is there? Has it already been reviewed once? • Has an assessment by CFS been done? What are the recommendations? What do you feel you need to challenge and why? <ul style="list-style-type: none"> • Have trial dates been set? How many days? • How many witnesses do you intend to call, and how many expert witnesses will there be? 	



Children’s Counsel Certificates

Authorization Request	Request Reasons	Required supporting documentation
7.05-Additional Hours-Civil	<p>How many children are involved?</p> <ul style="list-style-type: none"> • How many meetings with the children have there been and over what time period? <ul style="list-style-type: none"> • How many court appearances have there been, and what was the result? • How many third parties have been interviewed (ex. School principal, counsellor) • How many reports/letters have been prepared for the court? • Have you conducted any settlement meetings? How many and with what result. • Who is driving the litigation? • How much direct contact have you had with the parties? (i.e. have there been excessive emails or phone calls?) • Is the file in Case Management? • Are one or both of the parties self-represented? <ul style="list-style-type: none"> • Is there or will there be a Voice of the Child Report? What were the recommendations? What is still preventing the parties from reaching an agreement? 	

Appendix C: FAQ Tariffs and Disbursements

7.04-Additional Hours-Criminal

What standard does LAA use to assess requests for additional hours?


The standard we apply for approval of additional hours or expenses is whether a reasonable person of modest means would, if able, incur the cost associated with the requested expenditure of hours.

Why was my authorization request for additional hours “rejected due to submission under the wrong tariff?”

Due to the recent changes in authorization requests (and tracking), I am no longer able to approve requests for additional hours unless they are entered under the correct tariff item (for our record keeping). For all additional hour requests, please submit the authorization request as “add tariff item” and then in the tariff item box please select “7.04 – additional hours”. Please resubmit your request under that “tariff item”. Please do not use “hourly certificates”, “other”, or other options when requesting additional hours.

What does it mean when my authorization request is “rejected for more information”?

LAA requires you to support any Authorization Request by providing your timekeeping records and an explanation of how additional hours will be used pursuant to Section 3.7 of Administrative Policy. Sufficient information must be provided to allow LAA to make a final determination of the need for



additional hours. Our goal is to collect more accurate information about what these hours are required for, such as to address a complicated legal issue or manage unusually large amounts of disclosure.

What does it mean when my authorization request is “rejected as a request already denied?”

A request for additional hours that was entered previously and either denied or a lesser number of hours was approved, will not be reconsidered. If you disagree with the prior decision, you may Appeal that decision to the Manager of Operations and Criminal Assessment.

Why did I not receive the full number of additional hours I requested?

There are two reasons that you may have only been granted partial hours.

- (a) Partial hours may be approved in cases where the tasks outlined are largely covered by the Tariffs; however, there are additional issues or work outlined in the request that would justify approving additional hours to supplement the Tariffs.

- (b) Partial hours may be approved in cases where a large number of additional hours are being requested to cover all tasks on the certificate ranging from disclosure review to trial preparation. We approve additional hours as the file progresses, rather than a large chunk at the outset. For example, we may only approve hours for disclosure review and invite you to submit a further request once those hours have been expended.

Why was my authorization request “rejected as the tasks are included in the tariffs?”

Authorization requests may be rejected if the tasks outlined are included in the Tariffs. The following Tariffs must be considered prior to submitting an authorization request of Additional Hours:


- Interviewing and Briefing (1.06): includes meeting with client and getting instructions;
- Trial Tariffs (1.24 – 1.26): includes disclosure review, discussion with Crown, case law research, preparation for cross-examination, preparation of client to testify & attendance at the trial;
- Guilty plea (1.27) or ECR (1.28): includes disclosure review, negotiation with Crown, case law research, preparation for sentencing or guilty plea entry & attendance;
- Guilty Plea on Day of Trial (1.29): includes disclosure review, negotiation with Crown, case law research, preparation for sentencing or guilty plea entry & attendance;
- Speaking to Sentence (1.32): if the sentencing proceeds on a separate day from the guilty plea this tariff is available and includes preparation for sentencing, research & attendance;
- Written Argument where ordered by the Court (1.21): preparation of written submissions when they are ordered by the court
- Written Argument where not ordered by the Court (1.22): preparation of written submissions when they are not ordered (i.e., Charter Notices)

Why was my authorization request for retroactive hours rejected?

Section 3.9 of Administrative Policy 5 sets out LAA’s policy that additional hours or expenses will not be approved unless covered by the Tariff or approved in advance. Please note the exceptions to this policy at Section 3.11 of Administrative Policy 5 and the circumstances that must exist for an exception-based approval at Section 3.12. If, and only if, any of these exceptions apply, an additional request may be submitted via the Portal with the required information.

Why was my authorization request rejected due to lack of timesheets?

Roster Lawyers have an obligation to keep timekeeping records documenting the time spent working on a file and how that time was used pursuant to Section 3.8 of Administrative Policy 5. Going forward, LAA



requires you to support any Authorization Request by providing your timekeeping records and an explanation of how additional hours will be used pursuant to Section 3.7 of Administrative Policy.

Who do I contact if I am having technical difficulties with the Lawyer Portal?

If you have difficulties submitting your authorization request, for example, documents won't attach to your request, please contact Lawyerportal@legalaids.ab.ca.

High-Cost

Why was I only approved a small portion of hours for my Level 3 file?

Matters that have potential to be a High Cost as contemplated under Administrative Policy 7 often require additional hours. In order to properly manage these files, it is our approach not to approve more than 100hrs at one time. This does not mean that you will not receive sufficient hours for the file, rather, we will approve additional hours as the file progresses.

When is my file considered to be High-Cost?

A matter will be considered High-Cost when the anticipated hours in a case will be 500 hours or more and the total amount of fees and disbursements will exceed \$40,000.

A High-Cost Case Manager will oversee cases where the anticipated hours in a case will reach 900 hours or less and the anticipated cost of the case is \$75,000 or less. LAA considers a matter to be High-Cost once it reaches 500 hours.

A matter will be put before the High-Cost Committee once the anticipated hours are over 900 hours and the anticipated cost of the case is over \$75,000.

When am I required to submit a High-Cost Case Management Form?

A High-Cost Case Management form must be submitted once the anticipated hours in a case will be 500 hours or more and the fees and disbursements will exceed \$40,000.

Do only Level 3 files fall under the High-Cost Case Management Program?

No. All levels may qualify as a High-Cost matter depending on the nature of the charges and the issues involved in the file. For example, a Fraud Over \$5,000 charge is considered a Level 1 file; however, the fraud could include millions of dollars. High-Cost cases are considered on a case-by-case basis.

Special Disbursements


Why was my authorization request for an expert “rejected due to lack of supporting information?”

Each authorization request for an expert must include a quote from the expert setting out the work to be done and the hourly rate and the expert's *curriculum vitae*. LAA cannot approve a request for an expert without this supporting documentation.

Why was my authorization request for an expert “rejected as the expert rate exceeds cap?”

LAA has strict guidelines for expert rates. We do not have discretion to approve rates in excess of the rates set by LAA. The expert rates are as follows:

- (a) For Registered Psychologists, the cap is \$155 per hour.
- (b) For Physicians, including General Practitioners, the cap is \$180 per hour.
- (c) For other Physicians, including Psychiatrists, the cap is \$200 per hour.



(d) For all other experts, professionals, and investigators the cap is \$115 per hour.

Ordinary Disbursements

Why was my authorization request for transcripts rejected?

If a transcript is ordered on a 30 day turn around, then you can charge for it as an ordinary disbursement under tariff 8.11. No approval is needed.

Transcripts that are bail-related can be charged under tariff 8.11 without prior approval.

If you need an expedited transcript (2, 5, or 10 day turn around that is NOT bail related), then you seek approval to have tariff 9.09 added. When submitting a request for expedited transcripts please include the following information in your request:

- (a) What turnaround (2, 5 or 10 days) is required?
- (b) Why are transcripts needed on an expedited basis?
- (c) Estimate of transcripts

What can I do if I can only bill out Tariff 1.37 ten times, but I resolved more than 10 informations?

In this case, you can rely on Additional Hours to compensate for the cap on the Multiple Charges tariff. Multiple Charges applies ONLY where there is more than one Information being resolved on the same day. You will see that sometimes certificates have 5 or 11 Informations – if you resolve all 5 or 11 on the same day, you would charge 4 x 1.37 (or 10 x 1.37) depending on number of Informations.

If you have a trial date, with to speak to dockets attached and resolve them all, then you would charge the trial tariff plus the Multiple charges x whatever number you resolved. If you have 11 dockets, and set a trial date on each separately, you cannot charge the multiple charges at all. So really this tariff should be labelled "Multiple Resolved Informations". You don't need prior approval to charge this tariff but are allowed only up to 10.

You can only charge 10 times per certificate, so if you have 14 dockets and resolve them all the same day – 1 docket is the basis for the guilty plea tariff, then you can charge 10x multiple charges, but you are missing 3 "hours" for re-solving those additional Informations. In this case, you would put in an authorization request under "Additional Hours" for 3 additional hours due to the cap of 10 on tariff 1.37 in the system.

What Tariff do I use to have witness statements transcribed?

Requests to have witness statements transcribed can be billed under tariff 9.09-Transcripts and all Expedited Transcripts. Prior Approval is required for these requests. When submitting a request for transcription, please advise why the service is required and provide a quote that includes an estimate of the cost of the service.

What can I bill under Medical Report?

Tariff 8.15 can be used to cover the cost of hospital records, medical records, etc. You can bill up to \$250 without prior approval. You must obtain approval for any cost in excess of \$250. Please note, tariff 8.15 does not include expert reports.



How can I get coverage for an Enhanced Pre-Sentence Report?

To seek coverage for an Enhanced Pre-Sentence Report, you must submit an authorization request under tariff. 9.01-Experts. In this case, the expert is considered "other expert" at a rate of \$115/hour. LAA requires documentation to approve the request-CV and quote (outlining number of hours required and hourly rate).



Appendix D – Administrative Policies

Administrative Policy 5

Administrative Policy 5

Case Management for Certificate-Based Matters

Approved By:


G. John Panusa, President & CEO

Approved: April 30, 2021

Takes Effect On: June 1, 2021

Previous Policy: April 27, 2020

Purpose:

This document sets out Legal Aid Alberta's policies and expectations surrounding case management and how lawyers represent clients on legal aid certificates, and how lawyers may invoice LAA for that work. This policy includes (a) general provisions about how certificate matters are managed, (b) guidance about how LAA decides which lawyer will receive a certificate, (c) principles about how lawyers request discretionary funding from LAA, (d) provisions about billing in certificate matters, (e) an explanation about how lawyers invoice LAA and how LAA reviews invoices, and (f) guidelines about how LAA reviews decisions in a certificate matter.

Related

Rules:

Part I, Rules 1.9 to 1.11
Part VII, Rules 7.1 to 7.7
Schedule 2, Tariff for Roster Lawyers



Part 1 – General Principles that Apply to Certificates

Scope of this Policy

- 1.1 In this policy, “lawyer” means any roster lawyer or staff lawyer and includes a student-at-law.
- 1.2 This policy defines how LAA will manage certificates, how LAA will make discretionary case management decisions, how lawyers may submit accounts, and how LAA will review accounts.

Legal Aid Certificates

- 1.3 LAA appoints lawyers, authorizes services for clients, and keeps track of billing and payments using **certificates**. There are several different kinds of certificates, including:
 - (a) **duty counsel certificates**, where LAA appoints a lawyer to provide summary or short-term legal assistance, generally without regard for the client’s financial circumstances, which can be further subdivided into:
 - (i) **schedule-based duty counsel certificates**, where a lawyer provides summary or short-term assistance for more than one person in a specific place, on a specific day, or with a common legal issue (for example, acting as duty counsel in a criminal docket courtroom on a given day); and
 - (ii) **client-based duty counsel certificates**, where a lawyer provides summary or short-term legal assistance to a specific individual with respect to a narrowly defined legal issue that usually concludes in one or two appearances (for example, assisting a specific person at an emergency protection order review hearing);
 - (b) **client-based certificates**, which generally require the client to be financially eligible for LAA’s services, and which can be further subdivided into:
 - (i) **client-based representation certificates**, where a lawyer acts for the client with respect to a defined legal issue or issues (for example, defending the accused on an ongoing basis with respect to a specific criminal charge);
 - (ii) **opinion certificates**, where a lawyer is retained to provide LAA with a written opinion about the merits or details of a client’s legal issue or issues (for example, preparing an opinion about whether there is arguable merit to a client’s appeal); and
 - (iii) **limited-hours and appropriate-hours certificates**, where a lawyer acts for a client with respect to a defined legal issue or issues, but where the lawyer may only provide a specified number of hours of assistance for the client until LAA specifically approves additional coverage or hours (for example, a certificate for helping a client before an immigration tribunal).



Who Makes Decisions

- 1.4 If this policy requires or empowers LAA to make a decision, the person identified in Table 1 will make the decision on behalf of LAA unless a specific decision-maker is identified in this policy.

Policy Provides Guidance, but LAA Has Discretion

- 1.5 When this policy empowers LAA to make a decision or take an action, LAA may make that decision or take that action at its sole discretion. LAA is not required to consult with anyone before making the decision or before acting
- 1.6 If this policy suggests that LAA may consider or may apply certain criteria when making a decision or when considering whether to grant an authorization or take an action, LAA is not required to consider or apply any or all of those criteria in any specific case. LAA may exercise its discretion as it sees fit, regardless of whether all, none, or some of those criteria are satisfied.

Residual Discretion in Exceptional Circumstances


- 1.7 Although LAA will ordinarily make certificate management decisions in accordance with this policy, nothing in this policy limits LAA's residual discretion to select lawyers for matters or to manage the certificates it issues. Notwithstanding anything in this policy – and except as may be limited by the Rules – the CEO may make a case management, appointing, discretionary authorization, or account review decision, or any other decision provided for under this policy, at any time, without advance notice, and without any right of appeal.

Lawyer Named on Certificate is Counsel for the Client

- 1.8 If LAA issues a client-based certificate to a lawyer, that lawyer (the "certificate lawyer") must act for the client with respect to any matters that fall within the scope of the certificate.
- 1.9 A certificate lawyer must appear as counsel of record before a court or tribunal that hears the client's matter unless the certificate:
 - (a) is for a duty counsel service;
 - (b) is an opinion certificate; or
 - (c) has a condition qualifying the scope of the lawyer's retainer that makes it inappropriate for the lawyer to appear as counsel of record.
- 1.10 A lawyer who accepts a certificate with a less-than-full-scope retainer must disclose the scope of that retainer as required by any rules of the court or tribunal.

Certificate Lawyers Cannot Delegate Work Unless an Exception Applies

- 1.11 A certificate lawyer must not delegate work under a certificate to a lawyer who is not named on the certificate (a "second lawyer") unless one of the exceptions in this Part allows the certificate lawyer to



delegate such work.

Delegated Trials Do Not Fall Within These Exceptions and Require Special Permission

- 1.12 Notwithstanding any of the exceptions in this Part, a certificate lawyer must not delegate the conduct of a trial to a second lawyer without the consent of both LAA and the client. LAA will only consent in exceptional circumstances. If a certificate lawyer cannot conduct a trial, in most cases, the lawyer should request a change of counsel or ask for the certificate to be transferred to another lawyer.

Exception: Delegating Minor or Peripheral Work

- 1.13 A certificate lawyer may allow a second lawyer to provide minor or peripheral assistance in a client's matter if the certificate lawyer has express or implied authority to delegate such work to another lawyer. For example, in most circumstances, a certificate lawyer may delegate a straightforward scheduling appearance or docket court appearance to a second lawyer.

Exception: Delegating Certain Work when a Lawyer is Temporarily Unavailable


- 1.14 A certificate lawyer may delegate work to a second lawyer if:
- (a) the certificate lawyer is temporarily unavailable to assist the client;
 - (b) because of the urgency of the matter or possible prejudice to the client, a reasonable lawyer would not wait until the certificate lawyer was available; and
 - (c) the client consents to the second lawyer's involvement in the matter.
- 1.15 For example, in most cases, this exception will allow a second lawyer to:
- (a) assist a client with a straightforward bail hearing or a straightforward guilty plea for "time served" when the certificate lawyer is occupied in the trial of another matter; and
 - (b) assist a client with an urgent family law application when the certificate lawyer is away on vacation.

Exception: Delegating with the Consent of the Client and LAA

- 1.16 A certificate lawyer may delegate work to a second lawyer if:
- (a) the client consents to the second lawyer's involvement in the matter; and
 - (b) the certificate lawyer only delegates work as approved by LAA in response to the certificate lawyer's Authorization Request.

Requirements when Delegating Work to a Second Lawyer

- 1.17 When a certificate lawyer delegates work to a second lawyer:
- (a) the certificate lawyer remains the sole point of contact with LAA on the certificate;

- 
- (b) the certificate lawyer remains personally responsible to LAA for:
 - (i) the conduct of the second lawyer in relation to the client's matter;
 - (ii) ensuring the second lawyer provides competent service to the client;
 - (iii) avoiding any potential conflicts because of the second lawyer's involvement; and
 - (iv) ensuring the accuracy of all accounts submitted on the certificate;
 - (c) the certificate lawyer must keep records of the specific work the second lawyer performed, and when that work was performed, and must provide these records to LAA upon request;
 - (d) LAA has no financial obligations to the second lawyer with respect to their involvement in the matter, and the certificate lawyer and second lawyer must make their own arrangements regarding remuneration of the second lawyer for their involvement in the file;
 - (e) the certificate lawyer will submit all accounts on the certificate, and payments will be made to the certificate lawyer; and
 - (f) the certificate lawyer may invoice LAA for a second lawyer's work only at the rates or block fees authorized under the Tariff.

Confidentiality of Case Management Information

- 1.18 When a lawyer or client provides LAA with information in support of a review of a lawyer's account, or in support of an Authorization Request or another discretionary case management decision, this information might reveal aspects of the client's litigation strategy and will often include privileged information that a lawyer has received from the client or others.
- 1.19 LAA collects this information to make decisions about the lawyer's account or an Authorization Request or to make other case management decisions. LAA will use this information to make coverage and funding decisions about the client's matters, to pay the lawyer, to review the lawyer's account, for billing and collection purposes, for statistical purposes in a manner that does not identify the client, and in the course of a Law Society complaint or investigation.
- 1.20 LAA takes the position that, in general, a client's case management information is subject to solicitor-client privilege. As such, LAA will keep such information confidential except as between LAA, the lawyer, and the client, unless:
- (a) the client waives privilege;
 - (b) an exception to privilege applies; or
 - (c) disclosure is otherwise authorized by law or under the terms of a client agreement.

Lawyer's Duty to Advise LAA About Ineligible Clients



- 1.21 A lawyer acting for a client on a certificate must promptly notify LAA if they believe:
- (a) the client's matter is ineligible for coverage because the client's claim, application, or appeal does not have any reasonable prospect of success;
 - (b) the client is financially ineligible for any coverage or services being provided; or
 - (c) the client is committing a fraud against LAA by knowingly providing false or misleading information about the client's financial or personal circumstances unless the lawyer is prohibited from disclosing this information because of legal or professional obligations owed to the client. If a lawyer is uncertain about their duties under this section, LAA encourages the lawyer to consult with a Practice Advisor at the Law Society of Alberta.

Conditions Attached to Certificates

- 1.22 LAA may offer a certificate to a lawyer subject to conditions, which may include conditions:
- (a) narrowing or qualifying the scope of assistance that a lawyer may provide to a client or the matters covered by the certificate;
 - (b) making the client's ongoing coverage contingent on LAA reassessing the merit of the matter at a later stage of the proceedings;
 - (c) authorizing coverage only up to a certain stage of proceedings, with or without the option to extend coverage; or
 - (d) responding to the specific circumstances of a client or a client's matter, if LAA deems those conditions reasonable in the circumstances.
- 1.23 If a lawyer fails to comply with a condition attached to a certificate, LAA may cancel the certificate and may offer a certificate for this matter to another lawyer, and LAA may refuse to compensate the lawyer for any services performed (or disbursements incurred) in contravention of the condition.
- 1.24 If a client fails to comply with a condition attached to a certificate, LAA may cancel the certificate and withdraw the client's coverage for that matter.

Lawyers Must Explain Nature of Coverage to Client

- 1.25 A lawyer who represents a client on a certificate must make reasonable efforts to inform the client about:
- (a) the scope of the certificate, the breadth of the lawyer's retainer, and any limits on the representation the lawyer is authorized to provide under by the certificate;
 - (b) any certificate conditions that LAA has imposed on the lawyer or the client; and
 - (c) the financial consequences of any discretionary funding authorizations.



Coverage Begins when Certificate Issued

- 1.26 Coverage begins on the day LAA issues a certificate. Lawyers cannot submit an account for services they performed (or disbursements they incurred) before LAA issued the certificate.
- 1.27 LAA may agree to cover services performed (or disbursements incurred) before a certificate was issued, but only in exceptional circumstances.

High-Cost Cases Subject to Additional or Different Rules

- 1.28 This policy also applies to High-Cost Case matters that are dealt with under Administrative Policy 7, but where this policy is inconsistent with Administrative Policy 7 or that policy contains a more specific rule for High-Cost Cases, Administrative Policy 7 takes precedence to the extent of any inconsistency.

Staff Lawyers

- 1.29 LAA may, by internal policy, exempt some or all staff lawyers or staff offices from the billing or discretionary coverage rules found in this policy and may create alternative processes for managing staff lawyers' accounts or discretionary funding requests.



Part 2 – Selecting Lawyers for Cases & Changing Lawyers

Selecting Lawyers for Certificates

- 2.1 If LAA concludes that a client is eligible for certificate-based representation, LAA may take the following factors into consideration when deciding which lawyer should be offered a certificate:
- (a) for those matters where LAA typically offers certificates to a client’s preferred lawyer, the client’s choice of counsel, subject to any rules surrounding choice of counsel set out in the Governance Agreement, the Rules, or internal LAA policy;
 - (b) whether there are specialized panels or lawyer qualifications that apply to a practice area or a type of certificate;
 - (c) whether a lawyer practices within a geographic service area, and any internal policies about whether LAA will reimburse a lawyer from outside that geographic service area for the lawyer’s travel time or travel expenses;
 - (d) the operational capacity, specialization, geographic service locations, and file selection criteria for any group of LAA staff lawyers;
 - (e) any criteria or offer processes set out in LAA’s internal appointing rules.

Offers

- 2.2 LAA will offer certificates to lawyers using the Lawyer Portal, and lawyers may only accept certificates using the Lawyer Portal.

Offers Sent in Error

- 2.3 An offer expires on the date and time specified in the offer, and LAA may rescind an offer at any time before a lawyer accepts the offer. If LAA issues a certificate to a lawyer in error, LAA may:
- (a) revoke and cancel that certificate within five business days of when the certificate was issued without engaging the usual change-of-counsel process; and
 - (b) reimburse the lawyer, at the normal Tariff rate, for any time a lawyer has spent working on that certificate and for any reasonable disbursements.

Certificates May be Issued by Geographic Service Locations

- 2.4 LAA may allow lawyers to select one or more geographic service areas that represent the lawyers’ primary place (or places) of practice. LAA will typically offer certificates within a geographic service area only to lawyers who have selected that geographic service area.



Lawyers are Responsible for Conflict Screening

- 2.5 LAA does not screen matters for conflicts of interest before offering certificates to lawyers, and lawyers are responsible for implementing their own conflict screening processes.
- 2.6 If a lawyer accepts a certificate but then identifies a disqualifying conflict of interest, the lawyer must promptly advise LAA and ask for the matter to be reassigned.

Rationale for Change of Counsel Rules

- 2.7 LAA recognizes that there are sometimes unforeseen developments or breakdowns in a lawyer- client relationship that justify ending a lawyer's involvement in a matter and issuing a new certificate to a different lawyer. LAA also recognizes the importance of clients having confidence in the lawyers who have been appointed to represent them. At the same time, clients must make reasonable, good-faith efforts to work with their lawyers and clients do not have an unqualified right to change their lawyers upon request. When responding to a change of counsel request, LAA seeks to strike a balance between these competing interests.

How LAA Decides Whether to Grant Requests for Changes of Counsel

- 2.8 A lawyer or a client may request a change of counsel. LAA will consider these requests on a case-by-case basis, and in accordance with any internal LAA policies. Without limiting LAA's discretion, LAA will generally apply the following guidelines when evaluating these requests:
 - (a) LAA will not approve more than two changes of counsel caused by a breakdown in the lawyer-client relationship – for example, where a lawyer has withdrawn for ethical reasons because of a client's conduct, or where a client has lost confidence in his or her lawyer – unless there are exceptional circumstances justifying the request; and
 - (b) LAA will approve a request for a change of counsel if a lawyer makes the request for reasons that were entirely outside a client's control, such as when:
 - (i) a lawyer believes they cannot competently represent the client;
 - (ii) a lawyer discovers a disqualifying conflict of interest; or
 - (iii) a lawyer is leaving the practice of law or taking a sabbatical.
- 2.9 When considering a request for a change of counsel, LAA may consider:
 - (a) how many other changes of counsel LAA has authorized for the client;
 - (b) the seriousness of the matter and the importance of the legal issues to the client;
 - (c) the client's concerns about the lawyer's representation;
 - (d) whether the client behaved reasonably during the lawyer-client relationship and whether the client has made unreasonable requests of prior counsel;
 - (e) the status of the client's matter before a court or tribunal, including:



- (i) whether the matter has been set down for a trial or hearing,
 - (ii) whether counsel has sought or been granted permission to withdraw, and
 - (iii) whether the court or tribunal has appointed *amicus curiae* or counsel to assist the client;
- (f) whether the client remains eligible for LAA services; and
- (g) any internal policies LAA has established regarding changes of counsel.

2.10 A lawyer or client who requests a change of counsel must tell LAA why they are making the request. If LAA needs more information to assess the criteria mentioned in the preceding section, the lawyer and client must respond to LAA's requests for information. LAA may share the information it receives with both the lawyer and client.

2.11 LAA may ask a lawyer to attempt to address a client's concerns before LAA processes the client's request for a change of counsel.

2.12 LAA may re-assess a client's service eligibility or financial eligibility (under the relevant LAA policies) whenever LAA considers a request for a change of counsel. LAA may limit or cancel coverage if LAA determines the client is no longer eligible for services.

Administrative Transfer of Certificates to Other Lawyers

2.13 In circumstances and for certificates defined in internal LAA policy, and with the client's consent, LAA may allow a lawyer to transfer a certificate to another lawyer without submitting a request for a change of counsel. If a certificate is transferred using such a process, the original lawyer cannot submit an invoice for that certificate.

Representing More than One Party to the Same Matter


2.14 If a lawyer represents a client on a certificate, the lawyer must not act for:

- (a) another party to the same proceeding, or
 - (b) another accused person with charges that arise out of the same circumstances,
- without the express, written permission of LAA.

2.15 In general, LAA does not appoint a single lawyer to represent more than one party to the same proceeding. There are circumstances, however – such as court-ordered representation of more than one child in a family law matter – where multiple representation may be practical and cost-effective without raising substantial concerns about conflicts of interest.

2.16 If LAA issues a certificate authorizing a lawyer to act for more than party to the same proceeding or more than one accused person with charges that arise out of the same circumstances, a lawyer must submit either a combined invoice or separate invoices, as directed by LAA, and:

- (a) the lawyer may only charge a single block Tariff fee for each combined appearance or step that



involved more than one client;

- (b) if representing multiple clients causes additional work not fully compensated by the Tariff, the lawyer may submit an Authorization Request seeking extra hours; and
- (c) the lawyer remains responsible for identifying and managing any conflicts of interest.

Court-Ordered Counsel, Rowbotham Orders, and Amicus Curiae

2.17 A court or tribunal, Alberta Justice & Solicitor General, or another government agency may ask LAA to facilitate the appointment of a lawyer:

- (a) to act for or assist an individual pursuant to a statutory provision that permits a court or tribunal to appoint counsel (for example, under section 486.3 of the *Criminal Code*);
- (b) to represent a child in a family law matter, the lawyer being appointed under a superior court's *parens patriae* jurisdiction;
- (c) to act as *amicus curiae* in a matter; or
- (d) in response to a *Rowbotham* application, a *Rowbotham* order, or a similar order directing state-funded counsel for someone whose section 7 *Charter* rights are jeopardized by the proceedings,

and LAA may be required to provide coverage or facilitate the appointment of counsel in such circumstances (see *Governance Agreement*, ss. 1(f), 1(m), 1(p)).

2.18 If LAA facilitates the appointment of a lawyer in such circumstances:

- (a) LAA may offer the appointment to any lawyer it chooses;
- (b) LAA will manage the appointment by way of a certificate, and if a lawyer accepts such a certificate, LAA will – to the extent possible and subject to the terms of a court order – manage the certificate like an ordinary matter where LAA has granted a client coverage;
- (c) LAA may attach conditions to the certificate to address any unique circumstances arising from the appointment;
- (d) LAA will, to the extent possible and subject to the terms of a court order:
 - (i) reimburse the lawyer in accordance with the Tariff provisions that apply to the legal issue or the most analogous legal issue, and,
 - (ii) manage discretionary coverage requests, lawyer billing, and the review of the lawyer's accounts in accordance with ordinary LAA policy; and
- (e) LAA may, as a condition for granting or continuing coverage under such a certificate, require a person who is represented by such a lawyer to agree to the same terms and conditions as an ordinary LAA client, including agreeing to repay LAA for legal services or disbursements in accordance with LAA policies.



Part 3 – Discretionary Authorizations

Why LAA Uses a Discretionary Authorization Process


- 3.1 While LAA sometimes makes certificate management decisions, LAA does not oversee lawyers' conduct of files or provide lawyers with instructions about how they must represent clients. A lawyer forms a lawyer-client relationship with the client, not with LAA.
- 3.2 Some clients will require legal services or disbursements that are not specifically authorized under the Tariff. Lawyers may request funding for these services or disbursements on behalf of their clients. In these cases, LAA will make a discretionary decision about whether to fund a legal issue, an application, additional lawyer preparation time, an expert, or some other step on the certificate matter.
- 3.3 When LAA decides whether to grant a discretionary funding request, LAA's goal is to use the legal aid plan's resources responsibly – allowing LAA to assist the most Albertans possible – while also ensuring that LAA's clients receive competent and effective legal assistance that is proportionate to the seriousness and complexity of the legal problems the client faces.

Roster Lawyers' Duty of Good Faith

- 3.4 LAA relies on roster lawyers' representations when it makes discretionary funding decisions. Although LAA will review a lawyer's request, in most cases, LAA cannot independently confirm information about a client's circumstances. Accordingly, when roster lawyers make discretionary funding requests, they must act in good faith and must:
 - (a) provide candid and reasonably complete information about the relevant circumstances that pertain to Authorization Requests; and
 - (b) provide their reasonable professional opinion about clients' circumstances and legal needs.

Authorization Requests

- 3.5 If a lawyer believes that it is necessary to perform services (or incur a disbursement) in order to properly represent a client in relation to a certificate matter, but:
 - (a) the Tariff does not specifically authorize the services (or the disbursement);
 - (b) the Tariff allows a lawyer to bill a certain number of hours in relation to a specific Tariff item, but the lawyer believes they require additional time beyond the default number of hours permitted by that Tariff item;
 - (c) coverage for the service (or the disbursement) is discretionary under the Tariff, under LAA policy, or under a condition attached to a certificate; or
 - (d) the certificate is less-than-full scope and does not cover those services (or disbursements),




the lawyer may submit an Authorization Request through the Lawyer Portal seeking LAA's approval for the services (or the disbursement).

- 3.6 LAA may authorize some, all, or none of the coverage a lawyer seeks through an Authorization Request. When deciding whether to grant an Authorization Request, LAA will consider whether a reasonable person of modest means, who was funding the matter using the client's own resources, would have the lawyer perform those services (or would incur the disbursement). LAA may also consider:
- (a) the potential benefit or advantage the client stands to gain from the legal services (or disbursement) being requested;
 - (b) if the services (or disbursement) relate to a specific legal issue or legal argument, the importance that issue or argument would have to a reasonable person of modest means who was in a similar position as the client;
 - (c) the likelihood of success of any legal argument or application that relates to the additional services (or disbursement);
 - (d) how the lawyer has used any time that is permitted by the Tariff or that was granted in response to earlier Authorization Requests;
 - (e) whether the services (or disbursement) the lawyer is requesting appear to reflect a reasonable estimate of the time (or expense) associated with the services (or disbursement);
 - (f) whether there are any reasonable alternatives to the services (or disbursement) being requested, and whether the lawyer has adequately investigated those alternatives;
 - (g) whether a block Tariff item already compensates the lawyer for any related services;
 - (h) the type of certificate under which the lawyer is representing the client and the usual expectations regarding the nature or scope of the lawyer's representation under that kind of certificate;
 - (i) whether a legal issue that arises in the client's case is important to LAA's clientele, and if so, whether approving the Authorization Request could benefit other LAA clients; and
 - (j) any other criteria set out in an internal policy or guideline that LAA establishes for a specific legal issue, service area, or category of disbursement.

LAA May Request Information to Support Authorization Request

- 3.7 When considering an Authorization Request, LAA may require the lawyer or the client to provide additional information to assess the lawyer's request. This includes, for example:
- (a) details about any legal or factual issue relevant to the Authorization Request;
 - (b) timekeeping records documenting the lawyer's work on the file;
 - (c) a plan detailing how the lawyer intends to use any additional preparation time; or
 - (d) quotes or estimates from experts or anyone else the lawyer hopes to retain.

Extra Hours


- 
- 3.8 If LAA grants an authorization request allowing for additional preparation time on a certificate matter beyond what is already authorized by the Tariff (“extra hours”):
- (a) the extra hours are paid at the standard hourly rate set out in the Tariff;
 - (b) the lawyer must maintain timekeeping records to document the time spent working on the client’s matter and how that time was used, and the lawyer must provide these records to LAA, upon request;
 - (c) the extra hours authorization is not a block fee or flat rate that the lawyer may charge in the matter, and the lawyer may only submit an account for the actual time the lawyer has worked on the matter.

Authorization Requests Must be Submitted in Advance of Performing Work for Clients

- 3.9 In general, LAA will not reimburse lawyers for any legal services that were performed (or disbursements that were expended) on behalf of a client if the services (or disbursements) were not specifically authorized by the Tariff, or if the services (or disbursements) were not requested and approved in advance, by way of an Authorization Request.
- 3.10 LAA may approve a retroactive Authorization Request for legal services (or a disbursement) and reimburse a lawyer for some or all the retroactive services (or disbursement), but only if:
- (a) one of the exceptions set out in this Part applies; or
 - (b) an exception does not apply, but there are other exceptional circumstances where the lawyer made reasonable and good-faith efforts to adhere to the discretionary authorization process and failing to reimburse the lawyer would cause substantial unfairness to the lawyer.

Exceptions – Retroactive Authorization Requests

- 3.11 LAA may approve a retroactive Authorization Request if:
- (a) it was reasonably necessary to perform the services (or expend the disbursement) to protect the client’s position or the client’s interests;
 - (b) the lawyer could not have reasonably anticipated the need to submit an Authorization Request at an earlier stage of proceedings; and
 - (c) the lawyer promptly submitted a retroactive Authorization Request after they performed the services (or expended the disbursement).
- 3.12 LAA may approve a retroactive Authorization Request if:
- (a) the lawyer submitted an Authorization Request before performing those services (or expending the disbursement);
 - (b) the services (or disbursement) were reasonably necessary the circumstances; and
 - (c) LAA had not yet responded to the lawyer’s Authorization Request when the lawyer



performed the services (or expended the disbursement).

Discretionary Case Collapse Fees

- 3.13 LAA does not ordinarily pay for lost trial or hearing time that a lawyer expected to be able to bill under the Tariff. LAA may compensate a lawyer if a matter unexpectedly fails to proceed and if the case was subsequently concluded without a trial or hearing (that is, the matter was not merely adjourned). When deciding whether to grant a lawyer's Authorization Request in these circumstances, and when deciding how much to compensate the lawyer, LAA may consider:
- (a) the reason the trial or hearing did not proceed;
 - (b) how much time the anticipated trial or hearing took up in the lawyer's calendar;
 - (c) the amount of notice the lawyer received that the trial or hearing would not proceed;
 - (d) whether, with the exercise of due diligence, the lawyer might have had more notice that the trial or hearing would not proceed;
 - (e) whether the lawyer can be reasonably expected to use time that was scheduled for the trial or hearing for other matters or for other remunerative work; and
 - (f) the actual time the lawyer expended in preparation for the trial or hearing that would have been compensated by a block Tariff item if the trial or hearing had proceeded, but that the lawyer is now unable to bill under any other Tariff item.
- 3.14 Despite the preceding section, LAA will not compensate a lawyer for lost trial or hearing time:
- (a) when the trial or hearing that did not proceed was scheduled to last fewer than five business days; or
 - (b) when the lawyer had more than six months' notice that the trial or hearing would not proceed,
- except in extraordinary circumstances and with the approval of the CEO.

Maximum Hourly Rates for Expert and Professional Disbursements

- 3.15 LAA will not authorize expert or professional fees that exceed the following maximum rates:



Expert / Professional	Amount / Rate
Registered Psychologists	up to \$155.00 per hour
Physicians – General Practitioners	up to \$180.00 per hour
Other Physicians, Including Psychiatrists	up to \$200.00 per hour
Other Experts, Professionals, or Investigators	up to \$115.00 per hour


- 3.16 In extraordinary circumstances and with the approval of the CEO, LAA may authorize expert or professional fees that exceed the guidelines in the preceding section, but only if:
- (a) the fees are sought in a criminal law matter or a child welfare matter;
 - (b) LAA is satisfied it is necessary to pay higher expert or professional fees to ensure the client receives a fair trial; and
 - (c) LAA is satisfied that the fees being sought are no greater than required to ensure a fair trial.

Disbursements Must Not Exceed the Authorized Amount

- 3.17 It is the lawyer’s responsibility to ensure that an expert, or anyone else who the lawyer retains on behalf of the client, understand the terms, conditions, or limits upon which LAA has approved funding for a disbursement. This includes, for example, limits on an expert’s hourly rate or the number of hours an expert has been authorized to work on the file.
- 3.18 When a client is represented by a roster lawyer, the contractual relationship with an expert – or anyone else who the lawyer retains on behalf of the client – is between that person and the roster lawyer or the client, as the case may be, and not between that person and LAA.
- 3.19 If LAA authorizes a disbursement, and if the actual disbursement exceeds the amount that LAA has authorized, LAA may decline to reimburse the roster lawyer for any excess amount.

Discretionary Authorizations May Be Subject to Conditions

- 3.20 LAA may grant an Authorization Request on conditions, including, for example:
- (a) a condition requiring the lawyer to submit an interim account or an interim report on the time the lawyer has spent working on the file;
 - (b) a condition requiring the lawyer to submit an opinion regarding the merit of a legal issue or application at a later point in the file, with additional coverage contingent on LAA agreeing there is merit, based on the lawyer’s opinion;
 - (c) a condition defining how many hours of work are authorized for a lawyer, or the hours of work and hourly rate authorized for an expert, or anyone retained on behalf of the client; or
 - (d) the maximum amount of any disbursement.
- 3.21 If a lawyer fails to comply with any conditions attached to an Authorization Request:

- 
- (a) LAA may cancel the authorization; and
 - (b) LAA may refuse to reimburse the lawyer for all or part of the services (or disbursements) that it had authorized.

Second Counsel Only Authorized in Exceptional Circumstances

- 3.22 Certificates are issued to a single lawyer, and LAA does not issue concurrent certificates so that more than one lawyer may act for a client in the same matter.

- 3.23 LAA recognizes that unusual or particularly complex files sometimes require the involvement of more than one lawyer. Accordingly, in exceptional circumstances and where there is a demonstrable need for the assistance of a second lawyer on a file, LAA may grant an Authorization Request for extra hours on a certificate on the condition that these hours be used to compensate a second lawyer for that lawyer's involvement in the matter, including involvement at trial or in a special chambers hearing. If LAA grants an Authorization Request permitting second lawyer on a matter:
 - (a) the client must consent to the second lawyer's involvement in the matter;
 - (b) the second lawyer's involvement is subject to the usual requirements surrounding the involvement of a second lawyer, as set out in Part 1 of this policy;
 - (c) the additional hours are subject to the usual requirements for extra hours, as defined in this Part; and
 - (d) LAA may impose additional conditions on the involvement of the second lawyer.

- 3.24 LAA may also grant a training, mentorship, or "second chair" certificate to allow a lawyer to gain experience in a legal area, under the direct, personal supervision of another lawyer, on such terms or conditions as LAA may specify.

Lawyer May Not Accept Additional Payments for Certificate Services

- 4.1 When a lawyer acts on a certificate or as duty counsel, LAA must be the sole source of funding for any matters falling within the scope of that certificate or duty counsel appointment. A lawyer must not:
- (a) seek or accept any payment or reimbursement from the client or from any source other than LAA for any services provided (or disbursements incurred) when acting on that certificate or as duty counsel, or,
 - (b) accept any gift or gratuity of more than a nominal value, unless LAA specifically approves that payment, reimbursement, gift, or gratuity in writing.

Retainer Agreements

- 4.2 A lawyer may send an LAA client a retainer letter or require the client to enter into a retainer agreement that defines reasonable terms of the lawyer-client relationship, but:
- (a) the terms must be consistent with the LAA Rules, the Tariff, and any LAA policies or client agreement; and
 - (b) the lawyer must provide LAA with a copy of any such letter or agreement upon request.

No Referral or Transfer Fees


- 4.3 A lawyer must not pay or accept a referral fee, or give or accept any gift of more than nominal value, for:
- (a) recommending a lawyer to an LAA client for a certificate matter; or
 - (b) transferring a certificate to another lawyer or recommending the transfer of the certificate to another lawyer.

Old Lawyer Cannot Claim Lien or Withhold Client's File

- 4.4 A lawyer who has previously acted for a client on a certificate:
- (a) must promptly produce the client's file to the client's new lawyer when the client directs the lawyer to do so; and
 - (b) must not claim a lien for fees, disbursements, or expenses on the client's file or any of the client's property or records in the lawyer's possession.

Lawyer Must File Bail Assignment in Favour of LAA

- 4.5 If an LAA client has been released on a recognizance with a cash deposit, and if those bail monies have



not already been assigned to a third party, the lawyer who represents the client on that matter must – as a condition of the lawyer continuing to represent the client – require the client to assign the bail monies to LAA and must file a bail assignment with the court.

Rationale for Requiring Clients to Pay Money to Lawyer for LAA's Benefit

4.6 LAA clients are sometimes entitled to receive money from third parties. Because LAA recovers the costs of legal services from its clients, LAA requires lawyers who represent clients on certificates to take steps to protect LAA's financial interests when those clients become entitled to receive money during a proceeding covered by a certificate.

Use of Costs, Settlements, etc. to Cover Client Accounts (and Exceptions)

4.7 A lawyer who represents a client on a certificate must seek the client's instructions to have certain money paid or transferred from third parties to the lawyer. This money is applied first against what the client owes – or will owe – LAA for legal fees, with any remaining balance returned to the client.

4.8 A lawyer who represents a client on a certificate must, in proceedings related to that certificate, seek the client's instructions to transfer money to the lawyer in the following circumstances:

- (a) if a court or tribunal orders costs in favour of the client, or orders a judgment for a specific sum of money in favour of the client;
- (b) if the parties reach a settlement agreement that involves someone paying a specific sum of money to the client;
- (c) if matrimonial or common property is sold and the client and others agree to divide the proceeds of the sale; or
- (d) if a third party has seized cash from a client and a court or tribunal orders this cash returned to the client.

4.9 Subject to the requirements of any security agreement between LAA and the client, a lawyer does not need to seek a client's instructions to have money paid to the lawyer under the preceding section if:

- (a) the lawyer represents the client on a duty counsel certificate;
- (b) the payment from the third party is periodic or ongoing child or spousal support;
- (c) the payment from the third party is a lump-sum payment of child support; or
- (d) the payment involves the return of only a nominal amount of petty cash.

Transferring Funds to LAA to Cover Client Fees & Remitting the Balance to the Client

4.10 When a lawyer accepts money on behalf of a client pursuant to this Part:

- (a) the lawyer must promptly prepare and submit an interim or final account to LAA that covers all legal



services and disbursements that relate to that client to date;

- (b) when the lawyer submits the account, the lawyer must advise LAA that the lawyer holds money in trust that may be applied against LAA's fees, and then await direction from LAA;
- (c) after receiving direction from LAA, the lawyer must transfer enough money to LAA – in the manner directed by LAA – to cover the lawyer's account (or accounts) and any other amounts the client owes LAA for other certificate matters; and
- (d) if there is client money remaining after that sum has been transferred to LAA:
 - (i) if the lawyer has submitted a final account, the lawyer must remit the balance to the client, in accordance with the Law Society rules about returning money to clients; and
 - (ii) if the lawyer has not yet submitted a final account, the lawyer must hold back any amount that LAA instructs the lawyer to withhold in the expectation of the lawyer's subsequent accounts, and then remit the balance, if any, to the client, in accordance with Law Society rules about returning money to clients.

LAA Does Not Accept Trust Funds

- 4.11 LAA only accepts settlement funds or other client funds from lawyers when that money is being used to satisfy a lawyer's account. LAA will not accept client funds before a lawyer issues an account, and a lawyer is responsible for holding client funds in trust until they are transferred to LAA in accordance with this Part.

Lawyer Must Help Implement Security Agreement

- 4.12 As a condition of granting a client coverage, LAA may require the client to enter into a security agreement where LAA takes an interest against real or personal property. If LAA notifies a lawyer that LAA has required the client to enter into a security agreement, the lawyer must take reasonable steps to help implement the terms of that security agreement.

Lawyers Must Seek Guidance when they Cannot Comply with these Rules

- 4.13 A lawyer must promptly contact LAA and seek LAA's direction if:
- (a) the lawyer is uncertain whether they must accept client funds under this Part;
 - (b) a client refuses to instruct the lawyer to accept or transfer money as required by this Part; or
 - (c) the lawyer believes they cannot accept money or transfer money as required by this Part because of the lawyer's professional obligations or for any other reason.

Internal LAA Guidelines for Specific Tariff Issues

- 4.14 If the Rules, Tariff, or LAA's administrative policies do not address how a lawyer may bill or invoice LAA in relation to a specific issue or Tariff item, LAA may create and apply internal LAA policies or guidelines that explain how to address that issue or Tariff item.



Part 5 – Specific Rules for Certain Types of Certificates

Court-Ordered Children’s Counsel Certificates (Reimbursement Requirements)

- 5.1 If a judge orders counsel for a child in family law proceedings, the court order should require the parents or the other parties to reimburse LAA for the costs of children’s counsel, in accordance with the Tariff and LAA policies. A lawyer who represents a child on such a certificate must:
- (a) inform the parties of their obligation to repay LAA under the terms of the court order and take reasonable steps to assist LAA in enforcing this obligation; and
 - (b) if the court order does not address who will pay LAA for the lawyer’s services,
 - (i) obtain a second court order that defines how LAA will be reimbursed, and,
 - (ii) send LAA a copy of this order.

Merit Opinion Certificates


- 5.2 If a certificate requires a lawyer to prepare an opinion about the merits of a client’s case, application, or appeal, the lawyer must provide both LAA and the client with a copy of the opinion. LAA may require the lawyer to provide the opinion in the form specified by LAA. The lawyer is not authorized to order transcripts to prepare the opinion unless LAA approves a transcript disbursement by way of an Authorization Request.

Bail Only Certificates

- 5.3 If someone is financially ineligible for certificate coverage but the person is detained in custody on a criminal matter, then LAA may issue an hourly, client-based duty counsel certificate that authorizes the lawyer to assist the person with an application for judicial interim release or an application to review a decision denying judicial interim release. The lawyer is responsible for ensuring the client, court, and prosecutor understand the scope of the lawyer’s retainer. LAA will limit the amount of time the lawyer may spend assisting the client, and, in exceptional circumstances, LAA may grant an Authorization Request allowing additional time to assist the client with bail, beyond the time initially authorized under the certificate.

Appeal Certificates

- 5.4 If LAA issues a certificate to a lawyer that authorizes representation of a client on appeal:
- (a) LAA may define the scope of the appeal coverage (for example, limiting the appeal to an appeal against conviction or sentence);
 - (b) the lawyer must promptly advise the appellate court and opposing counsel that the lawyer has

- 
- been retained and must advise the court of the scope of the lawyer's retainer; and
- (c) if the matter will be heard in the Court of Appeal,
 - (i) the lawyer must consult with Transcript Management Services to determine whether LAA may be billed directly for preparation of transcripts and appeal books, and,
 - (ii) if TMS is prepared to bill LAA directly, the lawyer must arrange for TMS to do so, rather than billing the cost of transcripts and appeal books as a disbursement.

Drug Treatment Court

- 5.5 If a client is accepted into a Drug Treatment Court program, a client's certificate coverage on the matters dealt with through that program continues only until the client enters a guilty plea. If all the matters covered by the certificate are dealt with through that program, the lawyer who represented the client must submit an invoice within 30 days of when the client entered the guilty plea. If the client's guilty plea is later struck, or if the client requires assistance in speaking to sentence that duty counsel cannot provide, the client may reapply to LAA for additional coverage and LAA may issue another certificate.

Complainant's Counsel Certificates (Duty Counsel for Complainants on 276 Applications, etc.)

- 5.6 If LAA issues a client-based duty counsel certificate for a lawyer to assist a complainant or another witness in a criminal matter with respect to an application brought under the provisions of sections 276 to 278.96 of the *Criminal Code* or analogous common law rules:
- (a) the lawyer must ensure the client, the court, and the other lawyers understand that the lawyer is limited to providing summary, short-term assistance in relation to that specific application and that the lawyer does not act for the complainant or witness at large or on other applications; and
 - (b) the lawyer may submit an Authorization Request to LAA seeking additional time to assist the complainant in relation to that application – beyond the time initially authorized under the certificate – but LAA will only grant these requests in exceptional circumstances.



Part 6 – Lawyers’ Accounts and Review of Accounts

Rationale for Billing and Compliance Review Rules


- 6.1 Most certificate-based services are not free, and clients are expected to repay LAA for the services LAA provides via certificate lawyers. LAA is also publicly funded and is accountable to the Government of Alberta and Law Society of Alberta under the terms of the LAA Governance Agreement. As such, LAA must take steps to ensure that lawyers’ accounts are complete and accurate, and LAA must establish processes for the review of these accounts.

Lawyers Must Keep Time Records, Appearance Records, and Disbursement Records

- 6.2 If the Tariff or a discretionary authorization allows a lawyer to charge for actual time the lawyer spent working on a file, performing legal services, travelling, or waiting in court or at a tribunal, the lawyer must keep timekeeping records that:
- (a) provide a reasonably descriptive and itemized list of each specific service rendered, referring to the Tariff item that authorizes the lawyer’s fee, if applicable;
 - (b) identify how much time was spent on each item; and
 - (c) identify the day on which each itemized service was rendered.
- 6.3 If the Tariff allows a lawyer to charge a block rate for a court or tribunal appearance, pre-trial conference, portion of a trial or hearing, or any service where the Tariff item is inclusive of both preparation and attendance, the lawyer must keep a record of:
- (a) the day or days when the lawyer performed any such services, and whether the service was performed in the morning, afternoon, or both;
 - (b) the place or courtroom where a service was performed; and
 - (c) any other information necessary to justify the lawyer’s account based on the definition of that Tariff item.
- 6.4 A lawyer must keep:
- (a) an itemized list of disbursements incurred when representing a client on a certificate; and
 - (b) any invoices, records, receipts, or reports associated with those disbursements.

Lawyers Issued Certificates are Responsible for Other Lawyers’ Records

- 6.5 Where a lawyer submits an account that includes charges for services that were performed by another lawyer – including work charged at an hourly rate and any block Tariff items – the lawyer must:
- (a) keep a record of the name of the lawyer who provided those services;

- 
- (b) ensure that the second lawyer maintains the same records that the lawyer is required to keep under this policy; and
 - (c) provide LAA with a copy of those records in the same manner as though the lawyer created the records.

Lawyers Must Keep Records for Four Years from Final Invoice

- 6.6 If this policy requires a lawyer to keep a record or information in relation to a certificate, the lawyer must keep the record or information for at least four years from when the lawyer submits the final invoice for that certificate.

Accounts Submitted via Lawyer Portal Only


- 6.7 A lawyer must submit all accounts for a certificate using the Lawyer Portal, in the form required by the Lawyer Portal, and including supporting documents or records the Lawyer Portal requires.

Interim Accounts

- 6.8 A lawyer may submit an interim account on a certificate for any legal services the lawyer provides (or disbursements the lawyer incurs) before the client's matter concludes.
- 6.9 LAA may, by an internal business rule:
- (a) require a lawyer to submit interim accounts on certificates periodically; or
 - (b) limit how frequently a lawyer may submit an interim account on a certificate.

Final Accounts and Deadline for Submitting Final Accounts

- 6.10 Delays submitting accounts have a significant impact on LAA's ability to manage its financial affairs and LAA's ability to recover expenses from clients who may be responsible for repaying the lawyer's account.
- 6.11 As a result, there is a deadline for lawyers to submit accounts in relation to their certificate matters. A lawyer must submit their final account no later than six months after:
- (a) LAA cancels the client's coverage on the certificate,
 - (b) all matters covered by the certificate have been resolved or have concluded, or
 - (c) the lawyer stops acting for the client on the matters covered by the certificate,
- whichever comes first.
- 6.12 A lawyer who has missed the deadline for submitting an account may submit an Authorization Request to LAA, requesting an extension of time to submit the account. The Authorization Request must explain why the lawyer failed to submit the account before the deadline.
- 6.13 If a lawyer submits an account after this deadline, LAA may, at its sole discretion:
- (a) refuse to pay the lawyer's account, or

- 
- (b) choose to pay all or some of the lawyer's account.

Lawyers Have a Limited Period in which to Correct Errors in Accounts

- 6.14 A lawyer who submits a final account has 45 days from when the account was submitted to advise LAA of any errors or omissions on the final account or any related interim accounts and to amend their account or accounts. A lawyer cannot make any changes to an account on the certificate once this period has passed.
- 6.15 Despite the preceding section, a lawyer cannot amend an account if:
 - (a) the lawyer has already released funds to a client under Part 4 of this policy; and
 - (b) the account was issued before the lawyer released those funds.

Shorter Deadlines for Duty Counsel Certificates

- 6.16 LAA may attach a condition to a duty counsel certificate that requires a lawyer to submit an account sooner than the deadline set out in this policy.

Statistical Information Submitted with Lawyer's Account

- 6.17 LAA may require a lawyer to collect information about the outcome of the client's matter (for example, in a criminal matter, whether the client was sentenced to a period of incarceration, and if so, how long) or information about the duty counsel services the lawyer has provided (for example, the number of people the lawyer assisted), and LAA may require the lawyer to submit this information with the lawyer's account.

Initial Review of a Lawyer's Account When Account is Submitted (Certificate & Tariff Officers)

- 6.18 When a lawyer submits an account, LAA may review the account and may refuse to pay the lawyer for any unauthorized or undocumented items or expenses (including, for example, refusing to pay for disbursements that are not supported by receipts) or for any aspects of the account that do not comply with the Tariff, any conditions attached to the certificate, or any discretionary funding authorizations.
- 6.19 If LAA pays a lawyer's account after an initial review of the account, this does not prevent LAA from subsequently initiating a compliance review with respect to that account.

Subsequent Compliance Review of a Lawyer's Account Within Three Years (Internal Audit)

- 6.20 LAA may initiate a compliance review:
 - (a) of a specific account (or specific accounts), either interim or final; or
 - (b) with respect to a specific Tariff item or a specific type of disbursement that a lawyer has billed on a series of accounts.



- 6.21 LAA may initiate a compliance review:
 - (a) randomly, without any prior concerns about a lawyer or an account;
 - (b) in response to concerns about a lawyer, an account, a Tariff item, or a type of disbursement; or
 - (c) or for any other reason.

- 6.22 LAA may initiate a compliance review of an account by sending a letter to the lawyer who submitted the account, advising the lawyer that LAA is reviewing the account.

- 6.23 LAA may initiate a compliance review:
 - (a) in the case of an interim account,
 - (i) at any time before a lawyer submits a final account on the certificate; or
 - (ii) if the lawyer has already submitted a final account on the certificate, at any time within three years of when the final account was submitted; or
 - (b) in the case of a final account, at any time within three years of when the lawyer submitted the final account.

LAA May Request Supporting Information, and Lawyers Must Provide Information

- 6.24 During either the initial review of an account or a compliance review, LAA may require a lawyer to provide LAA with records that pertain to the accounts under review, including:
 - (a) any records the lawyer is required to create or keep under this policy;
 - (b) any billing records created or kept by another lawyer who performed work for the client; or
 - (c) a copy of originating documents, endorsements or clerk’s notes, court orders, affidavits, transcripts, written argument, or any document that was filed in court by any party to the matter (unless the lawyer is legally prohibited from providing these documents to LAA); and
 - (d) any records necessary to account for funds or property that was received from, or on behalf of, a client, including any settlement funds or any costs awards made in favour of the client.


- 6.25 LAA may require a lawyer to provide these records in electronic (PDF) format.

- 6.26 A lawyer must provide LAA with these records within 30 days of when LAA requests the records, unless LAA extends this deadline.

- 6.27 If the lawyer does not provide the information or records before the deadline, LAA may make a decision on the compliance review based on the information known to LAA.

Client Complaints About Lawyers’ Accounts

- 6.28 A client may contact LAA to raise a concern or make a complaint about a lawyer’s account. LAA may require the client to complete the prescribed complaint form before LAA begins a review of that account.


- 
- 6.29 A client may initiate a complaint about a lawyer's account no later than one year after the lawyer submitted their final account to LAA with respect to that matter.

Client Complaints – Step 1: Informal Review of a Client's Complaint

- 6.30 After receiving a client's complaint, LAA will alert the lawyer to the complaint and may contact the client and the lawyer to gather more information. LAA may attempt to resolve the complaint informally by discussing the matter with the client and the lawyer. At the conclusion of any informal review:
- (a) LAA may dismiss the client's complaint if it is satisfied that:
 - (i) the complaint is frivolous or vexatious;
 - (ii) the complainant has failed to respond to its reasonable requests for information; or
 - (iii) it has enough information to conclude the complaint does not require an adjustment to the lawyer's account;
 - (b) LAA may adjust the lawyer's account to correct any errors, oversights, or unjustified charges it has identified during this informal review; or
 - (c) LAA may decline to resolve the matter informally and undertake a compliance review with respect to the account.
- 6.31 If a lawyer is dissatisfied with any adjustments LAA made to an account after an informal review, the lawyer may, within 15 days of being informed of the adjustment, submit a written request that LAA conduct a compliance review for the account. When requested by the lawyer, LAA will undertake a compliance review into the account, and the compliance review will determine what adjustments, if any, LAA will make to the account.

Client Complaints – Step 2: Compliance Reviews Resulting from Client Complaints

- 6.32 The person who conducts a compliance review in response to a client's complaint may hold an informal in-person or teleconference meeting with the lawyer and the client, either at the request of the lawyer or the client or on the reviewer's own motion, but there is no right to such a meeting.
- 6.33 To eliminate any doubt about whether LAA may have unfettered access to a client's file during a compliance review, LAA may, before proceeding with a compliance review in response to a client's complaint, require the client to sign a waiver directing the client's lawyer to provide LAA with a complete copy of the client's file.
- 6.34 A client who makes a complaint must respond to LAA's request for information, records, or a waiver within 30 days of the request unless LAA grants an extension of time to respond. If the client fails to respond to LAA's request within this timeline, LAA may:
- (a) dismiss the complaint and cancel the compliance review; or
 - (b) proceed with a compliance review based on the information known to LAA.



6.35 When LAA completes a compliance review in response to a client's complaint it will provide the lawyer and the client with a summary of its findings and will advise the lawyer and client of any right to request a review of the decision.

New Information Can Lead to Subsequent Compliance Reviews

6.36 If LAA becomes aware of new information or different concerns about a lawyer or an account, LAA may initiate additional compliance reviews, even if LAA has already completed a compliance review or has already dismissed a client's complaint about an account.

Factors Considered on Review of an Account

6.37 After an informal review or a compliance review, LAA will determine whether a lawyer's account was inordinately high or unjustifiable because:

- (a) the account or its supporting records were materially incomplete or inaccurate;
- (b) the account did not comply with the Tariff, any LAA policy, a discretionary funding authorization, or any conditions attached to a certificate or an authorization;
- (c) the lawyer took plainly unnecessary steps in relation to the client's matter or spent grossly excessive time providing services to the client;
- (d) the lawyer has invoiced LAA for services that fall outside of the scope of the matters covered by a certificate;
- (e) a disbursement was excessive, unapproved, plainly unnecessary, or incorrectly allocated to the account.

6.38 When determining whether a lawyer's account was inordinately high or unjustifiable, LAA may consider:

- (a) any standards or criteria applied by the Review Office of the Court of King's Bench of Alberta when that office assesses the reasonableness of an ordinary lawyer's account, insofar as those standards or criteria may be adapted and applied to LAA accounts, and,
- (b) any billing, invoicing, or timekeeping guidelines, policies, or best practices that LAA has created to assist roster lawyers and has published on the LAA website.

Remedies After Compliance Review

6.39 If, after conducting an informal review or a compliance review, LAA determines that a lawyer's account was inordinately high or unjustifiable, LAA may:

- (a) require the lawyer to reimburse LAA for any overpayments or unjustified payments; or
- (b) set off any overpayments or unjustified payments against future payments to the lawyer in relation to other matters.

6.40 LAA may establish a repayment schedule or a set-off schedule with a lawyer.



Client Reimbursement for Overpayment

- 6.41 LAA will reimburse a client for any credit on their account if:
- (a) LAA concludes that a lawyer's account was inordinately high or unjustifiable;
 - (b) the client has already paid LAA any excess amount the lawyer charged the client; and
 - (c) there is a net credit on the client's LAA account after factoring in any other amounts the client owes LAA on other matters.

Additional Remedies

- 6.42 If, after having been given a reasonable opportunity to do, a lawyer does not provide LAA with any records LAA has requested under this Part, LAA may suspend a lawyer from the roster and stop issuing that lawyer certificates until they produce those records.
- 6.43 If a lawyer fails to repay LAA in accordance with a repayment schedule that was established under this Part, LAA may suspend the lawyer from the roster and stop issuing that lawyer certificates until they make the payments required under the repayment schedule.
- 6.44 Nothing in this policy limits:
- (a) LAA's ability to suspend or remove a lawyer from the roster or a panel in accordance with Administrative Policy 6 or a roster lawyer agreement; or
 - (b) LAA's ability to take any other steps that may be available to LAA under any roster lawyer agreement or otherwise.



Part 7 – Administrative Review of Decisions

Review of Discretionary Authorization Decisions

- 7.1 A lawyer to whom a certificate was issued may request an administrative review of:
- (a) a discretionary authorization decision made under Part 4;
 - (b) the outcome of an initial review of the lawyer's account;
 - (c) the outcome of a compliance review of the lawyer's account; or
 - (d) suspension from the roster for failing to provide records during a compliance review or for failing to comply with a repayment schedule.
- 7.2 A client with coverage under a certificate may request an administrative review of:
- (a) the decision to refuse a change of counsel;
 - (b) the decision to dismiss the client's complaint about an account; or
 - (c) the outcome of a compliance review that was initiated in response to a client complaint.
- 7.3 There is no administrative review of LAA's decision to offer a certificate to a lawyer or of LAA's decision to rescind or cancel an offer to a lawyer.

No Appeal of Administrative Review Decision

- 7.4 LAA's decision on an administrative review is final and there is no further appeal.

Deadline for Initiating Review

- 7.5 A lawyer or client must initiate an administrative review of a decision within 30 days of when LAA advises the lawyer or client of the decision, unless LAA extends this deadline.

Who Performs a Review

- 7.6 The reviewer identified in Table 1 will conduct the administrative review (or, if a delegate is noted in Table 1, his or her delegate).
- 7.7 An administrative reviewer may consider the decision under review afresh, without deference to the earlier decision-maker's decision, and may gather any new information the administrative reviewer believes would help perform the review.

Review is a Document-Based Process

- 7.8 An administrative review under this policy is commenced and conducted in writing. The reviewer



will consider the written submissions of the lawyer or client.

- 7.9 An administrative reviewer may contact the lawyer or client to obtain more information, but neither the lawyer nor the client has the right to appear before or make oral submissions to the decision-maker.

Administrative Review is Not the Only Way to Revisit Authorization Request

- 7.10 If LAA denies an Authorization Request under Part 4 of this policy, then instead of requiring the lawyer to apply for an administrative review, LAA may invite the lawyer to submit a new Authorization Request:
- (a) with additional details or information; or
 - (b) at a later stage in the proceedings.

Table 1: Case Management Decisions

Issue / Type of Decision	Initial Decision	Admin. Review Decision
<ul style="list-style-type: none"> • Changes of counsel • Transfer of certificates • Cancellation of certificates • Imposing conditions on certificates • Review of a lawyer’s account (before the account is approved and paid) • Applications for extensions of time to submit a lawyer’s account, after the deadline has passed 	Certificate & Tariff Officer	Senior Manager, Certificate & Assessment Services (or delegate)
<ul style="list-style-type: none"> • Discretionary authorizations under Part 3 (extra hours, disbursements, expert funding requests, retroactive requests, hours for second counsel, adding additional legal issues in family files, etc.) and conditions attached to those authorizations • Discretionary reimbursement for cancelled certificates or lost trial time 	Lawyer, Legal Assessment Team	Manager, Legal Assessment Team (or staff lawyer delegate)
<ul style="list-style-type: none"> • Informal review of a lawyer’s account in response to a client’s complaint (after the account has been paid) 	Quality Advisor	<ul style="list-style-type: none"> • <i>When requested by a client:</i> Senior Manager, Certificate & Assessment Services (or delegate) • <i>When requested by a lawyer:</i> No administrative review; lawyer may request a compliance review if dissatisfied with CTO adjustment to account
<ul style="list-style-type: none"> • Compliance review of a lawyer’s account (after the account has been paid), whether it was initiated by client complaint or by LAA 	Internal Auditor or Lawyer, Legal Assessment Team	Vice President, Finance & Technology (or delegate)
<ul style="list-style-type: none"> • Suspension of a lawyer for failing to reimburse LAA or for failing to provide records within a reasonable time 	Vice President, Finance & Technology (or delegate)	CEO (or delegate)



Administrative Policy 6

Administrative Policy 6

Roster and Panel Management

Approved By:



G. John Panusa, President & CEO

Approved:

April 30, 2021

Takes Effect On: June 1, 2021

Previous Policy: January 29, 2014

Purpose:

To identify the elements of roster and panel management, to provide a framework for how LAA makes roster and panel membership decisions, to define a process for reviewing the quality of roster lawyers' services, and to set out a process for appealing roster or panel membership decisions.

Related Rules:

LAA Rules, Rule 7.2

Part 1 – General

Policy Applies to Roster Lawyers (and Students), but Not to Staff Lawyers

- 1.1 In this policy, "lawyer" includes lawyers and students-at-law who are eligible to practice law in Alberta and does not include lawyers and students-at-law who are employed by LAA.
- 1.2 This policy applies to lawyers who provide services to LAA's clients under a certificate, including a duty counsel service, but it does not apply to LAA's staff lawyers.

Membership Does Not Confer Right to Any Appointment

- 1.3 Membership on the LAA roster or a panel only provides an opportunity to receive certificates or appointments from LAA. Roster or panel membership does not entitle a lawyer to:
 - (a) a certain number of certificates or appointments, or
 - (b) a specific certificate or appointment.



- 1.4 Nothing in this policy limits LAA's discretion when selecting lawyers for matters in accordance with its Rules and other policies, and nothing in this policy prevents LAA from making formal or informal inquiries to assess a lawyer's suitability for a matter or a category or matters.

Who Makes Decisions

- 1.5 If this policy requires or empowers LAA to make a decision, the person identified in Table 1 will make the decision on behalf of LAA unless a specific decision-maker is identified in this policy.

Residual Discretion to Manage Roster and Panels in Extraordinary Situations

- 1.6 LAA ordinarily makes decisions about roster and panel membership in accordance with this policy, but nothing in this policy limits or abrogates LAA's residual right and discretion to determine the membership of its roster or panels. Notwithstanding anything in this policy, the CEO may make any decision open to LAA under the Rules about who belongs to the roster or a panel, for any reason, at any time, without notice.

The LAA Roster

- 1.7 LAA maintains a roster of lawyers in private practice. LAA only offers certificates and duty counsel appointments to lawyers who belong to this roster. A lawyer may apply to LAA's roster at any time submitting the application form on LAA's website.
- 1.8 If LAA tentatively accepts a lawyer's application to join the roster, the lawyer does not formally become a member of the roster until the lawyer enters into the prescribed roster agreement between LAA and the lawyer.



Part 2 – Panels

Purpose of Panels

- 2.1 LAA may establish panels of lawyers who specialize in certain matters or practice areas to achieve one or more of the following goals:
- (a) promote specialization and excellence within those practice areas;
 - (b) help ensure that lawyers who represent LAA clients have the interest, aptitude, experience, and competencies required to successfully undertake the clients' matters;
 - (c) give lawyers an incentive to develop, maintain, and enhance their competencies in certain subjects or practice areas; and
 - (d) encourage lawyers to undertake continuing professional development.


Panel Membership is for a Limited Term, But Lawyers Can Reapply

- 2.2 Membership on a panel is for a fixed term, and LAA may determine how long a lawyer remains a member of a panel. Panel members may apply to extend their membership on the panel.

Panels and Panel Standards

- 2.3 Table 2 contains the list of panels established by LAA. LAA will prepare a panel standards document for each of these panels and publish it on Lawyer Portal. LAA may amend the panel standards document from time to time.
- 2.4 A panel standards document will:
- (a) define the matters covered by this panel in terms of the legal issues, practice areas, clientele, or other criteria that will determine the scope of the panel;
 - (b) define the geographic scope of the panel or the service locations covered by the panel;
 - (c) define the competencies LAA seeks in panel members;
 - (d) explain any expectations of panel members with respect to:
 - (i) continuing legal education or mentorship while a member of the panel, or
 - (ii) the minimum number of certificates that a panel member must accept;
 - (e) define how long a lawyer remains on the panel before being required to reapply;
 - (f) identify any special application or eligibility requirements, such as an interview, examination, reference check, writing sample, or minimum number of years at the bar.

Evaluating Panel Applications

- 
- 2.5 A lawyer may apply to a panel, during the period LAA accepts applications for that panel, by submitting the application form found on Lawyer Portal or on LAA's website. When deciding whether to grant a lawyer's application to join a panel, LAA will consider:
- (a) the applicant's interest, aptitude, and experience in the matters covered by the panel;
 - (b) whether the applicant has already demonstrated his or her competency in the areas defined in the panel standards document;
 - (c) the applicant's plans or commitment to develop any competencies that he or she has not yet fully demonstrated, taking into consideration the goal of selecting experienced practitioners for the panel while also allowing promising but relatively less-experienced lawyers to gain experience in panel matters; and
 - (d) if the applicant has previously belonged to this panel or other panels, whether the applicant has met LAA's expectations for panel members.

Screening Involves Both an Absolute and Relative Assessment of Applicants

- 2.6 When LAA assesses a lawyer's application under section 2.5, LAA will consider both:
- (a) the applicant's individual qualifications, and
 - (b) the applicant's qualifications relative to other applicants or panel members.

Selection Process Considers Number of Panel Members and Expected Number of Certificates

- 2.7 When selecting lawyers for a panel, in addition to the criteria mentioned in sections 2.5 and 2.6, LAA will consider:
- (a) how many lawyers who practice within a geographic service area have applied to join a panel; and
 - (b) the approximate volume of certificates that LAA expects to offer to the roster in that geographic service area,
- with the goal of ensuring that LAA selects:
- (c) enough lawyers so that panel members will accept a substantial portion of the panel matters offered to the roster, but
 - (d) not so many lawyers that:
 - (i) panel members do not materially benefit from membership on the panel, or,
 - (ii) panel members are offered too few certificates to maintain their competencies.

Panel Membership Does Not Express LAA's Views about Competence

- 2.8 LAA evaluates panel applications by weighing several factors and by considering both the applicant's individual abilities and their qualifications relative to other applicants. As a result, LAA may reject a lawyer's application to join a panel even if the applicant is qualified to represent clients in matters covered by the panel and even if the applicant has all required competencies.



- 2.9 LAA does not guarantee a lawyer’s competency or expertise by adding that lawyer to a panel or by offering that lawyer a certificate that falls within the scope of the panel. A panel lawyer remains responsible for determining whether they can provide competent service to a client whose matter falls within the scope of the panel.

- 2.10 A lawyer must not mention their membership on an LAA panel in any advertising or marketing materials, and a lawyer must not represent or suggest that the lawyer’s membership on a panel constitutes an endorsement or recommendation by LAA.

Panel Members Given First Preference When Offered to Roster

- 2.11 When a matter falls within the scope of a panel, and if LAA chooses not to appoint a staff lawyer, LAA may offer the certificate or duty counsel appointment to panel members before offering the certificate or appointment to other lawyers who do not belong to the panel.

- 2.12 Subject to LAA’s internal policies about acting on a client’s choice of counsel, if a client’s matter falls within the scope of a panel, and if the client has asked LAA to appoint a specific lawyer, LAA may offer the certificate to the client’s preferred lawyer even if the lawyer does not belong to that panel.



Part 3 – Quality-of-Service Reviews

Quality-of-Service Reviews

- 3.1 LAA may conduct a quality-of-service review to investigate and review the quality of service that a lawyer has provided to one or more LAA clients, or under one or more certificates.
- 3.2 LAA may conduct a quality-of-service review:
 - (a) in response to a complaint or a concern raised by a client, a lawyer (including a staff lawyer), a judge or member of an administrative tribunal, or another interested party; or
 - (b) as part of a quality-of-service audit or review program, randomly or otherwise.
- 3.3 The quality-of-service review process:
 - (a) is intended to address nontrivial concerns about the representation the lawyer has provided a client or clients; and
 - (b) is not intended to second-guess a lawyer's reasonable exercise of their professional judgment or to minutely scrutinize the lawyer's customer service skills.

Purpose and Philosophy of Quality-of-Service Reviews

- 3.4 LAA is not a professional regulator and LAA is not responsible for monitoring lawyers' competence or the quality of legal services they provide. Quality-of-service reviews are not intended to duplicate the regulatory function of the Law Society of Alberta or other regulators.
- 3.5 In general, if someone has concerns about a lawyer's conduct or the quality of service provided by a lawyer and a client seeks some remedy or outcome beyond LAA authorizing a change of counsel, then LAA will refer the complainant to the Law Society of Alberta or to another appropriate regulator.
- 3.6 However, in some circumstances there may be complaints or concerns about a lawyer's services or behaviour that do not appear to require investigation or discipline under the Law Society's processes, but that may appear worthy of investigation or remedial action by LAA.
- 3.7 In general, LAA will initiate a quality-of-service review only if:
 - (a) the complaints, concerns, or issues raised in the review appear straightforward and it seems likely the review does not require extensive investigation;
 - (b) LAA has no reason to believe a professional regulator is investigating the same or similar complaints or concerns;
 - (c) to the best of LAA's knowledge,
 - (i) there is no reasonable prospect the quality of the lawyer's representation will become an issue on any appeal, or,



- (ii) the appeal periods for any related client matters have expired and no appeal has been taken, or if there was an appeal, the appeal has concluded; and
- (d) the review relates to:
 - (i) more than one related complaint or concern that has been raised about a lawyer's actions, behaviour, representation, or services,
 - (ii) the services a lawyer has provided as a member of a panel,
 - (iii) schedule-based duty counsel services, or,
 - (iv) possible violations of LAA policy or procedures that are not conveniently investigated using the compliance review process in under Administrative Policy 5.

3.8 Nothing in this policy prevents LAA from reporting a lawyer to a law society or another regulator. Nothing in this policy requires LAA to report a lawyer to a law society or another regulator.

3.9 To encourage the reporting of concerns about roster lawyers – which LAA hopes will lead to prompt intervention to address concerns surrounding the quality of a lawyer's service – LAA may refuse to disclose the identity of someone – other than the lawyer's client – who has made a complaint or who has brought a concern to LAA's attention if LAA believes it is unnecessary for the roster lawyer to learn the person's identity to respond to the complaint or concern. Nothing in this policy requires LAA to name or identify someone who, acting in good faith, makes a complaint or raises a concern about a lawyer.

Client Concerns Can be Resolved Informally

3.10 LAA is not required to conduct a quality-of-service review whenever LAA receives a complaint or becomes aware of a concern about the quality of service provided by a lawyer.

3.11 Nothing in this policy prevents LAA from attempting to resolve complaints or concerns informally.

Initiating a Review

3.12 LAA may initiate a quality-of-service review by sending a lawyer a letter:

- (a) advising the lawyer of the general nature and purpose of the review and inviting the lawyer's response;
- (b) identifying the clients, certificates, or proceedings that are the subject of the review;



- (c) summarizing the complaint or concerns that prompted the review, or explaining the nature of the audit that resulted in the review, as the case may be;
- (d) attaching any documents in LAA's possession that LAA believes the lawyer requires to respond to the review, such as a transcript of a relevant court proceeding, having regard to the privacy interests of any third parties;
- (e) detailing any documents or records that LAA requests from the lawyer, which may include, for example, documents that the lawyer has filed in court;
- (f) summarizing any possible outcomes that may arise from the review; and
- (g) specifying a deadline for responding to the review.

3.13 To help ensure LAA has information it needs to complete a quality-of-service review, and to eliminate any doubt about LAA's ability to access this information, LAA may obtain a client's permission to:

- (a) review the client's file, and,
- (b) allow LAA and the lawyer to discuss the client's matter, including discussing information subject to solicitor-client privilege,

but LAA may proceed with the review if LAA believes it can complete the review without the client's permission or without this information.

Lawyer's Response

3.14 A lawyer who is the subject of a quality-of-service review must respond to LAA by the deadline set out in LAA's letter unless LAA extends the deadline. The lawyer's response must include:

- (a) any information the lawyer wants LAA to consider about the quality of the lawyer's services;
- (b) any documents or records that LAA sought in its letter initiating the review; and
- (c) any other documents or records the lawyer wants LAA to consider.


3.15 The person who conducts a quality-of-service review may have further discussions or correspondence with the subject lawyer, and LAA may request additional information or records from the lawyer. LAA may set a deadline for the lawyer's response.

3.16 If a lawyer does not respond to LAA or fails to provide LAA with documents or records LAA has requested before the deadline for a response, LAA may:

- (a) take action under section 3.18 in response to the quality-of-service review without considering the lawyer's position; and
- (b) consider the lawyer's failure to participate in the quality-of-service review when deciding upon the appropriate action.

Outside Opinion


3.17 LAA may retain a lawyer outside the organization to review a lawyer's response to a quality-of-service



review and any related materials and to prepare an opinion about the quality of service the lawyer provided. LAA will provide a copy of this opinion to the subject lawyer and will allow the lawyer to respond to the opinion.

Reasons and Action Taken

- 3.18 After conducting a quality-of-service review, LAA may take no action, or LAA may:
- (a) limit the nature of certificates it offers the lawyer, either for a defined period or indefinitely and subject to reinstatement conditions, including by limiting:
 - (i) the highest legal issue level it will offer the lawyer in criminal matters, or,
 - (ii) the types or certificates or service areas of certificates it will offer the lawyer;
 - (b) require a lawyer to undertake continuing professional development and provide proof of completion of any continuing professional development activities;
 - (c) require a lawyer to contact a practice advisor at the Law Society of Alberta to seek assistance in any defined subjects or areas of practice – and, if required to do so by LAA, provide the practice advisor with a copy of LAA’s letter or decision summarizing any findings – and provide LAA with proof of having done so;
 - (d) refer the matter to the Law Society of Alberta or another regulator for further investigation;
 - (e) conduct a compliance review of the lawyer’s accounts under Administrative Policy 5; and
 - (f) recommend that the lawyer be suspended or removed from a panel or from the roster under Part 4 of this policy.
- 3.19 LAA applies the following principles when deciding what steps to take after a quality-of-service review, if any:
- (a) LAA’s clients are entitled to the same quality of service as a reasonable person of modest means who has retained a lawyer using their own limited funds;
 - (b) LAA’s primary concern is protecting LAA’s vulnerable clientele; and
 - (c) in general, actions taken in response to a review are intended to be remedial and to protect LAA’s clientele, and these actions are not intended to punish a lawyer or to deter others.
- 3.20 LAA will send the subject lawyer a letter summarizing its findings and setting out any steps LAA is taking in response to the quality-of-service review.
- 3.21 LAA may provide a complainant with a summary of any steps taken in response to the complaint or concern, but LAA must not:

- 
- (a) reveal any personal information about the lawyer, or,
 - (b) reveal any privileged or confidential client information.

Combining an Audit and a Quality-of-Service Review


- 3.22 In general, LAA will use the process under Administrative Process 5 to resolve client concerns about issues related to the lawyer's bill or how much their lawyer has charged the client, and LAA will use the process under this policy to resolve client concerns about the quality of service a lawyer has provided to a client. LAA may:
- (a) combine a quality-of-service review with an audit or compliance review of a lawyer's account under Administrative Policy 5; or
 - (b) undertake a quality-of-service review in response to concerns identified during the client complaint or compliance review processes under Administrative Policy 5.
- 3.23 If LAA combines a quality-of-service review with a compliance review under Administrative Policy 5:
- (a) LAA may adapt any procedures defined in these two policies as necessary to accommodate a combined review; and
 - (b) any appeal of actions LAA takes in response to the compliance review under Administrative Policy 5 must follow the appeal process under that policy, and any appeal of actions LAA takes under this policy must follow the appeal process in this policy.



Part 4 – Suspending or Ending Roster or Panel Membership

Removal and Suspension from the Roster or a Panel

- 4.1 Without limiting LAA’s powers under a roster lawyer agreement, under any other policy, or under section 1.6, LAA may suspend or remove a lawyer from the roster or from a panel if:
- (a) the lawyer violates a term of the roster lawyer agreement, the LAA Rules, or LAA policy;
 - (b) the lawyer has:
 - (i) submitted a dishonest or an intentionally misleading account or information to LAA,
 - (ii) submitted accounts that contain significant errors or omissions, or
 - (iii) failed to provide LAA with information or records that LAA has reasonably requested during an audit, compliance review, or quality-of-service review;
 - (c) after conducting a quality-of-service review,
 - (i) LAA concludes that the lawyer has failed to provide one or more clients with what LAA believes to be a minimally acceptable level of service, assistance, or representation, and the lawyer’s continued participation on the roster or on a panel is inconsistent with the best interests of LAA’s clientele, or,
 - (ii) the lawyer fails to take any actions or steps LAA required of the lawyer under Part 3;
 - (d) the lawyer fails to complete training or continuing education they agreed to complete as a condition of joining or remaining on the roster or the panel, as the case may be;
 - (e) a professional regulator suspends the lawyer from the practice of law in Alberta or in another jurisdiction, because the lawyer has committed conduct deserving of sanction; or
 - (f) the lawyer is alleged to have committed, or has been found to have committed:
 - (i) an offence under the *Criminal Code*, the *Controlled Drugs and Substances Act*, or another federal criminal law; or
 - (ii) conduct deserving of sanction under the *Code of Conduct* of the Law Society of Alberta or a similar code of professional conduct,and LAA has reasonable grounds to believe the lawyer’s continued participation on the roster or on a panel could endanger the interests of LAA’s clients or could materially damage LAA’s reputation or legal interests.
- 4.2 LAA may suspend a lawyer from the roster or from a panel:
- (a) for a defined period, with or without the possibility of an early reinstatement if the lawyer meets



certain conditions or,

- (b) indefinitely, subject to conditions that the lawyer must satisfy before being reinstated.

Notice that LAA Intends to Act

- 4.3 LAA may warn – but is not required to warn – a lawyer that it is considering removing them from the roster or from a panel.
- 4.4 Except in circumstances or where LAA believes the lawyer’s immediate removal or suspension is necessary to protect the interests of LAA or its clients, LAA will ordinarily:
 - (a) provide a lawyer with at least 30 days’ notice of its intention to suspend or remove the lawyer; and
 - (b) invite a written response from the lawyer,but LAA’s failure to provide notice does not invalidate the suspension or removal.

Reasons

- 4.5 If LAA suspends or removes a lawyer from the roster, LAA will provide a lawyer with a written summary of its reasons for suspending or removing the lawyer.

Reapplying After Removal from the Roster

- 4.6 A lawyer who has been removed from the roster may not reapply for membership on the roster until at least two years after the lawyer was removed.

Winding Down after Suspension or Removal

- 4.7 When a lawyer is suspended or removed from a panel or from the roster:
 - (a) the lawyer must report to LAA on the status of all unfinished work and certificates;
 - (b) the lawyer may submit an account to LAA for any certificate services and disbursements the lawyer reasonably performed or incurred in compliance with the LAA Rules and policies before the lawyer was suspended or removed;
 - (c) LAA may, at its sole discretion, permit the lawyer to continue acting on any outstanding LAA certificates until those matters are concluded, or LAA may reassign those matters;
 - (d) if an LAA client retains different counsel because the lawyer was suspended or removed, the lawyer must promptly deliver the client’s file to the client’s new lawyer; and
 - (e) the lawyer must continue to comply with any LAA policies or procedures regarding the billing or review of the lawyer’s accounts.



Lawyers who are Disbarred or Suspended from the Practice of Law

- 4.8 If a lawyer is disbarred or retires from the practice of law:
- (a) the lawyer is automatically removed from LAA's roster; and
 - (b) LAA may cancel and reassign the lawyer's certificates or duty counsel appointments.
- 4.9 If a lawyer is suspended from the practice of law in Alberta or is temporarily prohibited from practicing law in Alberta:
- (a) the lawyer is automatically suspended from LAA's roster; and
 - (b) LAA may cancel and reassign the lawyer's certificates or duty counsel appointments regardless of whether the Law Society of Alberta has appointed a custodian of the lawyer's practice.
- 4.10 If a lawyer is automatically suspended from the roster because they are suspended from practicing law in Alberta, this automatic suspension does not prevent LAA from removing the lawyer from the roster for imposing a longer suspension than the professional regulator.

Lawyers Must Update Practice Information Annually

- 4.11 A lawyer must log into Lawyer Portal and confirm their contact, practice, and banking information at least once per year, on the schedule set by LAA. If a lawyer fails to do so, LAA may automatically stop issuing certificates to the lawyer until they confirm this information.

Administrative Removal of Lawyers who Fail to Accept Certificates or Fail to Respond

- 4.12 LAA may remove a lawyer from its roster without notice, and without complying with the procedural steps set out in in this policy:
- (a) if the lawyer has not accepted any certificates or duty counsel appointments in the preceding three-year period and the lawyer has no active certificates; or
 - (b) if the lawyer persistently fails to respond to LAA after LAA has made reasonable efforts to contact the lawyer using the contact information most recently provided by the lawyer.
- 4.13 A lawyer who is removed from the roster under the preceding section is eligible to reapply for the roster as soon as they are removed from the roster.

Leaving the Roster or a Panel

- 4.14 A lawyer may resign from the roster, or any panel of the roster, by providing LAA with notice via Lawyer Portal.



Part 5 – Appealing Decisions Related to Roster and Panel Membership

Appeals Committee Hears Appeals of Roster- and Panel-Related Decisions

- 5.1 Appeals under this policy are heard and decided by the Appeals Committee that is established under Administrative Policy 4. Except when inconsistent with this policy or where changes are required by the context:
- (a) the Appeals Committee will decide appeals using the procedures defined in Administrative Policy 4; and
 - (b) the Appeals Committee has the same powers as defined in Administrative Policy 4.
- 5.2 A lawyer may appeal to the Appeals Committee against LAA's decision:
- (a) to reject the lawyer's application to join the roster or a panel;
 - (b) to take action or impose conditions on the lawyer after a quality-of-service review LAA conducted under Part 3;
 - (c) to suspend the lawyer from the roster or a panel, to fail to cancel a suspension, or to impose reinstatement conditions; or
 - (d) to remove the lawyer from the roster or a panel.

Request for Hearing

- 5.3 A lawyer who wishes to appeal a decision to the Appeals Committee must submit a written request for an appeal to the Appeals Secretariat within 30 days of when LAA made the decision the lawyer wishes to appeal. In exceptional circumstances, the Appeals Secretariat may extend this deadline. The written request for an appeal must:
- (a) set out the grounds on which the appellant lawyer disagrees with LAA's decision; and
 - (b) attach any written submissions, records, or documents that the appellant lawyer wishes the Appeals Committee to consider.
- 5.4 The Appeals Committee may refuse to consider any written submissions, records, or documents that the appellant lawyer did not attach to the written request for an appeal.

Hearings of the Appeals Committee

- 5.5 The Appeals Secretariat select panelists for an appeal and will set a date and time for the Appeals Committee to hear the appeal. The Committee will make reasonable efforts to hear appeals within 21 business days of receiving a request for an appeal, subject to the availability of Committee members. The



Committee will make reasonable efforts to render its decision within 21 business days of the conclusion of the hearing.

5.6 Three members of the Appeals Committee are a quorum for appeals under this policy. The panel that hears an appeal under this policy must include:

- (a) at least two lawyers; and
- (b) at least one member of the LAA Board of Directors.

5.7 The Appeals Committee may consider:

- (a) information or records available to the original decision-maker; and
- (b) any new information brought to the Committee's attention.

5.8 The Appeals Committee must hear and consider the representations of LAA management about their reasons for the decision under appeal. The CEO (or delegate) may respond to the written request for appeal and provide the Appeals Committee and the appellant lawyer with written submissions, records, and documents the CEO wants the Appeals Committee to consider.



Power of Appeals Committee

- 5.9 The Appeals Committee may vary or uphold the decision under appeal. The Appeals Committee may make any decision or take any action that was open to the original decision-maker whose decision is under appeal.
- 5.10 The Appeals Committee may take a more significant action against a lawyer or impose more onerous conditions than the original decision-maker – including removing the lawyer from the roster or from a panel – but it must warn the lawyer that it is considering doing so, and it must give the lawyer a chance to respond.
- 5.11 If the Appeals Committee allows a lawyer’s appeal against a decision to remove the lawyer from a panel or from the roster, the Committee may impose conditions on the lawyer’s continued participation in the roster or a panel, including taking any action listed in section 3.18.
- 5.12 Subject to section 1.6, decisions of the Appeals Committee are final and are cannot be reviewed or appealed.

Appeal Does Not Stay Suspension, etc.

- 5.13 An appeal does not suspend a suspension from the roster, removal from the roster, or any other action that was taken by the original decision-maker, but the Appeals Committee has the same powers to stay a decision pending appeal as set out in Administrative Policy 4.

Appeals Hearings are Informal

- 5.14 Subject to section 5.16, a lawyer who appeals a decision under this Part may appear before the Appeals Committee to make oral submissions by telephone or through another method permitted by the Committee. The hearing will be conducted informally, and, for greater certainty, the hearing is not subject to the rules of evidence.
- 5.15 The Appeals Committee may ask questions of the appellant lawyer and the CEO (or delegate). Unless the Appeals Committee believes there are exceptional circumstances that justify adopting a different procedure, an appellant lawyer does not have the right to call witnesses or examine or cross-examine witnesses at a hearing, and the Appeals Committee will decide the appeal based on the written record submitted to the Committee in advance of the hearing, as supplemented by any oral submissions.

Process for Appeals Regarding Panel Membership are a Summary Process, Without a Hearing

- 5.16 Appeals involving a lawyer’s application to join a panel are decided summarily and using a different process than other appeals. When the Appeals Committee considers an appeal from a decision denying a lawyer membership on a panel:
 - (a) the lawyer appealing the decision may provide written submissions to the Committee, but the lawyer does not have the right to participate in a hearing or make oral representations to the Committee, nor does the lawyer have the right to access or review any information the Committee considers on the appeal, including the CEO’s written response;



- (b) the Committee must consider and apply the factors mentioned in sections 2.5 to 2.7;
- (c) the appeal is not an inquiry into whether the lawyer is competent or qualified to accept certificates that fall within the panel's scope or definition;
- (d) the Committee may consider any information about the lawyer that is brought to its attention – including information about the relative merits of different candidates for the panel – and the Committee will not share this information with the lawyer appealing the decision;
- (e) a representative of LAA may provide the Committee with confidential or *in camera* submissions explaining why LAA did not accept the candidate's application; and
- (f) the Committee may discuss and decide the appeal by the exchange of confidential written correspondence and without a meeting or hearing.



Part 6 – Transitional

Referrals Made on or Before May 31, 2021 to be Concluded Using Previous Policy

- 6.1 If the CEO of LAA has referred a lawyer to the Roster Committee on or before May 31, 2021, under the terms of Administrative Policy 6 that was in force at that time, the Roster Committee will consider that referral, conduct a hearing, and dispose of the referral by applying the version of Administrative Policy 6 that was in force on May 31, 2021, and, for greater certainty:
- (a) if the Roster Committee suspends or removes a lawyer from the roster under the terms of the old policy, the lawyer’s application to rejoin or be reinstated on the roster is governed by the terms of the present policy; and
 - (b) nothing in this section prevents LAA from using the procedure defined in the present policy or other present LAA policies to suspend or remove a roster lawyer because of acts or omissions that occurred before May 31, 2021.

Table 1: Roster/Panel Management Decisions

Issue / Decision	Initial Decision-Maker	Appeal To
Quality-of-service review	Staff lawyer selected by General Counsel	Appeals Committee
Applications to join the roster	Senior Manager, Certificate and Appointing Services	Appeals Committee
Suspension, reinstatement, and removal from the roster, including the imposition of reinstatement conditions or other conditions	Vice President, Justice Services	Appeals Committee
Panel applications, including applications to join a panel or renew a lawyer's membership on a panel, and including the imposition of any conditions on panel membership	Internal LAA committee, selected by General Counsel, that is responsible for the relevant panel (an <i>ad hoc</i> committee of three or more staff lawyers, the composition of which may vary between service locations and will vary between panels)	Appeals Committee
Suspension, reinstatement, and removal from a panel, including the imposition of any reinstatement conditions or other conditions	Vice President, Justice Services	Appeals Committee

Table 2: List of Panels

Panel Name	Brief Description of Panel <i>(See Panel Description on Website for Full Scope/Description)</i>
Youth Criminal Law Panel	Panel of lawyers given first preference when youth criminal law certificates are offered to roster lawyers.



Legal Aid Alberta

