



THE LAW SOCIETY OF UPPER CANADA  
 130 QUEEN STREET WEST, TORONTO, ON M5H 2N6  
 PHONE: 416-947-3315 OR 1-800-668-7380 EXT. 3315  
 FAX: 416-947-9070  
 VISIT WWW.LSUC.ON.CA

CONTACT US  
 OFFICE OF THE REGISTRAR: REGISTRAR@LSUC.ON.CA  
 SUPPORT SERVICES: SUPPORTSERVICES@LSUC.ON.CA  
 SPECIAL NEEDS: SPECIALNEEDS@LSUC.ON.CA

PARALEGAL LICENSING PROCESS

# Paralegal Licensing Process Policies

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## Part I: Definitions

### I. Definitions

- (1) “Accredited Legal Services Program” is a legal services program in Ontario that was, at the time that the Applicant graduated from the program, approved by the Minister of Training, Colleges and University and accredited by the Society.
- (2) “Applicant” means a person who submits an Application after June 30, 2010 but does not include a person who is exempt, pursuant to By-Law 4, from the requirement to have graduated from an Accredited Legal Services Program.
- (3) “Application” is the application to the Society by the Applicant for registration into the Paralegal Licensing Process.
- (4) “Candidate” is a person who is registered in the Paralegal Licensing Process but does not include a person who is registered in the Paralegal Licensing Process and is exempt, pursuant to By-Law 4, from the requirement to have graduated from an Accredited Legal Services Program.
- (5) “Date of Submission of the Application” is the date that the Society receives the Application.
- (6) “Day” means any day except a Holiday.
- (7) “Director of Professional Development and Competence” means an employee of the Society assigned by the Chief Executive Officer the responsibility of administering the Paralegal Licensing Process and enforcing the Policy.
- (8) “Hearing Panel” means the Law Society Hearing Panel continued under Part II of the *Law Society Act*.
- (9) “Holiday” means any Saturday or Sunday, New Year’s Day, Family Day, Good Friday, Civic Holiday, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Eve Day, Christmas Day, Boxing Day, New Year’s Eve Day and any special holiday proclaimed by the Governor General or Lieutenant Governor.
- (10) “Licensing Cycle” means the period from June 1 of one year to May 31 of the following year into which the Candidate is registered by the Society into the Paralegal Licensing Process.
- (11) “Licensing Term” means the period ending three years from the date of commencement of the Candidate’s Licensing Cycle.
- (12) “Paralegal” is a person who holds a Paralegal Licence.
- (13) “Paralegal Licence” is a Class P1 Licence issued by the Society.
- (14) “Paralegal Licensing Examination” means the licensing examination developed by the Society the successful completion of which is required to obtain a Paralegal Licence.
- (15) “Paralegal Licensing Examination Rules and Protocol” mean the rules and protocol established by the Society from time to time to ensure that the Paralegal Licensing Examination is conducted fairly and securely.
- (16) “Paralegal Licensing Process” is the process for completion by Candidates of the Paralegal Licensing Examination.
- (17) “Policy” means these Policies for the Paralegal Licensing Process.
- (18) “Prescribed Form,” means the form approved by the Director of Professional Development and Competence.
- (19) “Prescribed Fee” means the fee approved by the Society.
- (20) “Registrar” means a person designated by the Director of Professional Development and Competence to perform the duties of the Registrar.
- (21) “Request for the Issuance of a Paralegal Licence” is the request to the Society for the issuance of a Paralegal Licence by a Candidate who has completed the Paralegal Licensing Process and met the Society’s requirements for the issuance of a Paralegal Licence.
- (22) “Society” means The Law Society of Upper Canada.

## Part II: General

### 2. Purpose

- (1) This Policy describes the rules and procedures for completion of the Paralegal Licensing Process for Applicants.

### **Part III: The Paralegal Licensing Process**

#### **3. Completion of the Paralegal Licensing Process**

- (1) In order to complete the Paralegal Licensing Process, a Candidate must:
  - (i) be registered into the Paralegal Licensing Process;
  - (ii) pass the Paralegal Licensing Examination in accordance with the Policy;
  - (iii) complete the Paralegal Licensing Process during the Candidate's Licensing Term; and
  - (iv) comply with the Policy.

### **Part IV: Application**

#### **4. Registration into the Paralegal Licensing Process**

- (1) A person who meets the requirements of subparagraph 4(2) may be registered as a Candidate into the Paralegal Licensing Process.
- (2) A person who wishes to be registered into the Paralegal Licensing Process must:
  - (i) complete and file with the Office of the Registrar an Application in the Prescribed Form;
  - (ii) pay to the Society the Prescribed Fee for registration;
  - (iii) file with the Office of the Registrar at the time or times stipulated by the Registrar:
    - (a) an official transcript from the institution indicating that the person has graduated from an Accredited Legal Services Program sent directly by the issuing institution to the Office of the Registrar;
    - (b) two colour passport size photographs of the person taken within the twelve month period preceding the Date of Submission of the Application; and
    - (c) proof of the person's legal name in the form required by the Registrar; and
  - (iv) provide the Society with all documents and information required by the Society relating to the Application in the manner and within the time periods stipulated by the Society.
- (3) The Prescribed Fee for registration is comprised of:
  - (i) an application fee;
  - (ii) a fee for the licensing examination study materials; and
  - (iii) a licensing examination fee.
- (4) A Candidate upon registration into the Licensing Process will be registered into a Licensing Cycle.
- (5) A person who was a candidate in the Licensing Process and whose Application was deemed to have been abandoned pursuant to subparagraph 8(17) of the Policy, may only submit another Application if authorized by the Director of Professional Development and Competence.
- (6) A person who wishes to request the authorization of the Director of Professional Development and Competence to submit another Application pursuant to subparagraph 5 must submit a request in the Prescribed Form to the Office of the Registrar.
- (7) The Director of Professional Development and Competence will authorize a person whose Application was deemed to have been abandoned pursuant to subparagraph 8(17) of the Policy, to submit another Application if:
  - (a) the person demonstrates to the satisfaction of the Director of Professional Development and Competence that there has been a material change in circumstances; and
  - (b) one year has passed after the date on which the person's previous Application was deemed to have been abandoned.

## Part V: False or Misleading Representations

### 5. False or Misleading Representations

- (1) A person who makes any false or misleading representation or declaration on or in connection with the application for a Paralegal Licence by commission or omission is deemed thereafter not to meet and not to have met the requirements for the issuance of a Paralegal Licence.
- (2) A person who makes any false or misleading representation or declaration on or in connection with an examination application, by commission or omission, is deemed thereafter not to meet and not to have met the requirements for taking a Paralegal Licensing Examination and the successful completion of any Paralegal Licensing Examination taken by the person is deemed thereafter to be void.
- (3) A person who makes any false or misleading representation or declaration on or in connection with the registration into the Paralegal Licensing Process, by commission or omission, is deemed thereafter not to meet and not to have met the requirements for registration into the Paralegal Licensing Process and the person's registration into the Paralegal Licensing Process is deemed thereafter to be void and the successful completion of any Paralegal Licensing Examination or professional conduct course conducted by the Society taken by the person is deemed thereafter to be void.

## Part VI: Good Character Requirement

### 6. Good Character Requirement

- (1) An applicant for a paralegal licence shall be of good character.
- (2) In order to determine whether a person is of good character, the Society may require the person to provide information and/or supporting documentation regarding good character. This information and supporting documentation may include but is not limited to information and documentation with respect to whether the person:
  - (i) has been found guilty of, or convicted of, any offence under any statute;
  - (ii) is the subject of criminal proceedings;
  - (iii) has had judgment rendered against him or her in an action involving fraud;
  - (iv) has any outstanding civil judgments against him or her;
  - (v) has ever disobeyed any order of any court requiring the person to do any act or to abstain from doing any act;
  - (vi) has been discharged from any employment where the employer has alleged that there was cause;
  - (vii) has been suspended, disqualified, censured or otherwise disciplined as a member of any professional organization;
  - (viii) has been denied a licence or permit or had any licence or permit revoked for failure to meet good character requirements;
  - (ix) has been refused admission as an applicant or member of any professional body;
  - (x) has had allegations of misconduct made against him or her while attending a post-secondary institution or has been suspended, expelled or penalized by a post-secondary institution for misconduct while attending that institution;
  - (xi) is subject to a petition or assignment in bankruptcy or a proposal to creditors under the *Bankruptcy and Insolvency Act* (Canada) or has been bankrupt or insolvent under any statute;
  - (xii) has been disciplined by an employer or been a respondent in proceedings in relation to a Human Rights Code violation; and
  - (xiii) has been sanctioned or had a penalty imposed upon him or her by a court, an administrative tribunal or a regulatory body.
- (3) Subsection 27(2) of the *Law Society Act* provides that it is a requirement for the issuance of every licence under the Act that the applicant be of good character.
- (4) If the Hearing Panel determines that a Candidate is not of good character, the Hearing Panel may make an order refusing the Candidate's application for a Paralegal Licence.

- (5) Where the Hearing Panel makes an order refusing the Candidate's application for a Paralegal Licence, the Registrar will remove the Candidate from the Paralegal Licensing Process and the Candidate will cease to be a Candidate in the Paralegal Licensing Process.
- (6) Where a Candidate is removed from the Paralegal Licensing Process pursuant to subparagraph 6 (5), the Candidate may submit another application to the Society at any time based on fresh evidence or material change in circumstances.
- (7) A person shall provide to the Society at the time that the person submits her or his application for a Paralegal Licence, all documents and information specified by the Society on the application form relating to the requirement that the person be of good character and by the time specified by the Society all additional documents and information specified by the Society relating to the requirement that the person be of good character.
- (8) A person who fails to comply with subparagraph (7) or subparagraph 8(12) is deemed to have abandoned his or her application and in such circumstances the person's registration into the Paralegal Licensing Process is cancelled.

### **Part VII: Candidate Obligation to Keep Application Information Current**

#### **7. Requirement to Keep the Information in the Application Up to Date**

- (1) A Candidate must maintain all information contained in the Application up to date.
- (2) A Candidate must notify the Registrar in writing forthwith of any change in the information and/or responses contained in the Application and must provide the Registrar with any information or supporting documentation required by the Registrar as a result of the change(s).
- (3) A Candidate must notify the Registrar in writing forthwith of any fact or circumstance or change in fact or circumstances that could affect the Candidate's good character status.

### **Part VIII: Paralegal Licensing Examination**

#### **8. Paralegal Licensing Examination Rules and Protocol**

- (1) A person must be registered into the Paralegal Licensing Process to write a Paralegal Licensing Examination.
- (2) A Candidate must comply with the Paralegal Licensing Examination Rules and Protocol.
- (3) A Candidate who fails to comply with the Paralegal Licensing Examination Rules and Protocol may be removed from the Paralegal Licensing Process pursuant to Part X of the Policy.
- (4) A Candidate must complete a Paralegal Licensing Examination at a Sitting of the Paralegal Licensing Examination.
- (5) A "Sitting of the Paralegal Licensing Examination" means the time, date and location established by the Registrar for the writing of a Paralegal Licensing Examination.
- (6) A Candidate who wishes to complete a Paralegal Licensing Examination must no later than 30 days\* prior to the date of the Sitting of the Paralegal Licensing Examination submit to the Office of the Registrar a written request in the Prescribed Form indicating that the Candidate wishes to complete the Paralegal Licensing Examination at that sitting and pay the Prescribed Fee for the examination.

**\*Please note the definition of the term "day" in subparagraphs 1(6) and 1(9)**

- (7) Where the Registrar approves the Candidate's request, the Registrar will assign the Candidate to the particular Sitting of the Paralegal Licensing Examination and the Candidate must complete the Paralegal Licensing Examination at that sitting.
- (8) Subject to clause (iii) of subparagraph 3(1) of the Policy, where a Candidate who has been assigned to a particular Sitting of the Paralegal Licensing Examination wishes to defer the completion of that examination, the Candidate must submit a request to defer in the Prescribed Form to the Office of the Registrar at least five days\* prior to the date scheduled for the completion of the Paralegal Licensing Examination and the Registrar will approve the request and refund or defer the Prescribed Fee for the examination paid by the Candidate less the Prescribed administrative Fee.
- (9) Subject to clause (iii) of subparagraph 3(1) of the Policy, where a Candidate who has been assigned to a particular Sitting of the Licensing Examination wishes to change the location of the writing of the Licensing Examination or the language of choice for the writing of the Licensing Examination, the Candidate must submit a request in the Prescribed Form to the

Office of the Registrar at least 30 days\* prior to the date scheduled for the writing of the Licensing Examination and the Registrar may approve the request.

**\*Please note the definition of the term “day” in subparagraphs 1(6) and 1(9)**

- (10) Subject to Part XII of the Policy regarding accommodation, where a Candidate has been assigned to a Sitting of the Paralegal Licensing Examination and does not attend that sitting and fails to follow the procedure for deferral set out in subparagraph (8), the Candidate will not be entitled to any refund of the Prescribed Fee for the examination paid for the completion of that examination.
- (11) Subject to subparagraphs (12) and (13), a Candidate who fails a Paralegal Licensing Examination may complete the Paralegal Licensing Examination another time or times.
- (12) A Candidate must pass the Paralegal Licensing Examination during the Candidate’s Licensing Term.
- (13) A Candidate may not write during the Candidate’s Licensing Term a Paralegal Licensing Examination more than three times or if authorized by the Director of Professional Development and Competence pursuant to subparagraph 16 more than four times.
- (14) A Candidate who has failed the Paralegal Licensing Examination three times during the Candidate’s Licensing Term may apply to the Director of Professional Development and Competence for authorization to write that examination a fourth time during the Candidate’s Licensing Term if the Candidate is eligible to write that Licensing Examination pursuant to the Policy.
- (15) A Candidate who wishes to request the authorization of the Director of Professional Development and Competence pursuant to subparagraph 16 must submit to the Office of the Registrar:
  - (a) a request in the Prescribed Form by the time stipulated by the Registrar and no later than 30 days\* prior to the end of the Candidate’s Licensing Term; and
  - (b) all of the documents and information required by the Society relating to any requirement for taking the Licensing Examination by the time stipulated by the Registrar.

**\*Please note the definition of the term “day” in subparagraphs 1(6) and 1(9).**

- (16) The Director of Professional Development and Competence will approve the Candidate’s request to write the Licensing Examination during the Candidate’s Licensing Term a fourth time if the Candidate establishes to the satisfaction of the Director of Professional Development and Competence that there exist extraordinary circumstances that would affect or could be expected to affect the Candidate’s ability to successfully complete the Licensing Examination.
- (17) A Candidate who fails during the Candidate’s Licensing Term a Paralegal Licensing Examination three times or four times if authorized pursuant to subparagraph 16 by the Director of Professional Development and Competence to write the examination a fourth time is deemed to have abandoned the Candidate’s Application and in such circumstances the Candidate’s registration into the Licensing Process is cancelled.

## **Part IX: Prohibited Conduct**

### **9. Prohibited Conduct**

- (1) A Candidate must not engage in conduct that tends to bring discredit upon the paralegal profession including, for example,
  - (i) committing a criminal act that reflects adversely on the Candidate’s honesty or trustworthiness or fitness to be a paralegal;
  - (ii) engaging in conduct that reflects adversely upon the integrity of the paralegal profession and the administration of justice;
  - (iii) engaging in conduct involving dishonesty;
  - (iv) breaching the Paralegal Licensing Examination Rules and Protocol; and
  - (v) engaging in Licensing Dishonesty.

- (2) “Licensing Dishonesty” means engaging in any form of cheating, dishonesty or misconduct, fraud or misrepresentation in order that a Candidate obtain credit or other advantage of any kind in respect of the Paralegal Licensing Examination and includes but is not limited to:
- (i) copying another person’s answer to a Paralegal Licensing Examination question during a licensing examination;
  - (ii) consulting an unauthorized source during a Paralegal Licensing Examination;
  - (iii) bringing into the examination any unauthorized materials;
  - (iv) removing from the examination room any unauthorized materials;
  - (v) being in possession of or using unauthorized information or materials prior to or during the Paralegal Licensing Examination; or
  - (vi) assisting a person to carry out an activity mentioned in clauses (i), (ii), (iii), (iv), or (v) above.

### **Part X: Removal from the Paralegal Licensing Process**

#### **I0. Removal**

- (1) The Registrar will remove a Candidate from the Paralegal Licensing Process where,
- (i) the Candidate has failed to pass the Paralegal Licensing Examination during the Candidate’s Licensing Term;
  - (ii) the Candidate has withdrawn from the Paralegal Licensing Process and the Registrar has approved the withdrawal;
  - (iii) an order has been made pursuant to section 27 of the *Law Society Act* refusing the Candidate’s application for a licence;
  - (iv) the Candidate has not complied with subparagraph 4(2) of the Policy;
  - (v) the Candidate’s registration into the Paralegal Licensing Process is deemed to be void or is cancelled pursuant to subparagraph 5(3), 6(8) or 8(17) of the Policy; or
  - (v) the Candidate has been issued a Paralegal Licence by the Society.

### **Part XI: Withdrawal from the Paralegal Licensing Process**

#### **II. Withdrawal**

##### **Procedure for Withdrawal**

- (1) A Candidate who wishes to withdraw from the Paralegal Licensing Process will submit to the Registrar,
- (i) a request to withdraw in the Prescribed Form;
  - (ii) the Candidate’s Law Society photo identification card; and
  - (iii) all outstanding fees;
- and the Registrar will approve the request to withdraw.

##### **Effect of Withdrawal**

- (2) Subject to Part V of the Policy, a Candidate, who withdraws from the Paralegal Licensing Process and who has completed the Paralegal Licensing Examination and obtained a standing of pass, will retain that standing of pass for a period of two years after the end of the Licensing Cycle.

##### **Refunds on Withdrawal**

- (3) A Candidate who withdraws from the Paralegal Licensing Process will pay the full Prescribed Fee for registration less any refund to which the Candidate is entitled pursuant to the Policy.
- (4) A Candidate who withdraws from the Paralegal Licensing Process prior to the commencement of the Licensing Cycle will be entitled to a refund of the Prescribed Fee for registration paid less the Prescribed Fee for application.

- (5) Subject to Part XII regarding accommodation, a Candidate who withdraws from the Paralegal Licensing Process after the commencement of the Licensing Cycle and fails to follow the procedures for withdrawal contained in the Policy will pay the full Prescribed Fee for registration and will not be entitled to any refund.
- (6) Subject to subparagraph 8(10), a Candidate who withdraws from the Licensing Process after the commencement of the Licensing Cycle and prior to taking the Paralegal Licensing Examination and who follows the procedure for withdrawal contained in the Policy, will be entitled to a refund of the Prescribed Fee for registration paid less:
  - (i) the Prescribed Fee for application;
  - (ii) the Prescribed Fee for the licensing examination study materials if the Candidate has received the materials;
  - (iii) the Prescribed Fee for each Paralegal Licensing Examination that the Candidate should have taken in accordance with the Policy but failed to take; and
  - (iv) any other fee payable by the Candidate pursuant to the Policy.

## **Part XII: Accommodation**

### **12. Accommodation**

- (1) The Society is committed to ensuring that the requirements of the Paralegal Licensing Process are directly and logically connected to the competent provision of legal services and further that persons who wish to provide legal services in Ontario are not effectively barred from qualifying because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, disability or the receipt of public assistance.
- (2) The Society will provide accommodation in the Paralegal Licensing Process to persons in accordance with the Policy and Procedures for Accommodations for Candidates in the Paralegal Licensing Process established by the Society from time to time (Accommodations Policy).
- (3) A person who requires accommodation must follow the procedure for requesting accommodation contained in the Accommodations Policy.
- (4) Where an accommodation cannot be made or is unsatisfactory, the person may appeal the decision by following the procedure contained in the Accommodations Policy.

## **Part XIII: Request for the Issuance of a Paralegal Licence**

### **13. Eligibility to Request a Paralegal Licence**

- (1) A Candidate may be issued a Paralegal Licence by the Society if the Candidate
  - (i) has submitted a Request for the Issuance of a Paralegal Licence in the Prescribed Form;
  - (ii) has completed the Paralegal Licensing Process in accordance with the Policy;
  - (iii) has paid all fees owing by the Candidate to the Society;
  - (iv) has filed all required documents in accordance with the Policy, By-Laws and the *Law Society Act*; and
  - (v) is of good character as required by subsection 27(2) of the *Law Society Act* and has delivered an undertaking to the Society in the Prescribed Form certifying that the Candidate has maintained good character throughout the Paralegal Licensing Process.
- (2) In order to be issued a Paralegal Licence a Candidate must
  - (i) file with the Office of the Registrar in the Prescribed Form:
    - (a) a Petition for Issuance of a Paralegal Licence and Certificate of Fitness Form; and
    - (b) an Affirmation to taking the Oath.
  - (ii) swear or affirm to the required Oath for an applicant for a Paralegal Licence under the *Law Society Act*.
- (3) It is a requirement for the issuance of a Paralegal Licence that the Applicant not already hold a licence to provide the legal services that a licensee who holds a Paralegal Licence is authorized to provide.

- (4) A person who has been issued a Paralegal Licence will cease to be a Candidate in the Paralegal Licensing Process.

#### **Part XIV: Late Filing Fee**

##### **I4. Late Filing Fee**

- (1) Where the Policy stipulates a date by which documents must be filed and the person fails to file documents by the due date, the person must pay the Prescribed Fee for late filing.