

CBA-NL LEGISLATION AND LAW REFORM GUIDE (2020-21)

The mandate of the CBA-NL Legislation and Law Reform (L&LR) Committee is to pursue improvements in the law and the administration of justice by: promoting consideration by the Branch of legal and policy issues that are of interest or concern to the legal community; to which the legal profession has a social or moral obligation to respond; and upon which the Branch can inform public debate.

CBA-NL L&LR initiatives will encapsulate provincial legislation and other issues falling within the constitutional jurisdiction of the provincial government, and other matters of provincial scope before provincial or subsidiary government bodies or officials. This does not include the making of federal submissions or statements.

For 2020-21 the CBA-NL Executive Committee will serve as the standing L&LR Committee.

CBA-NL LEGISLATION AND LAW REFORM – PROCESS



What is Considered a Submission?

A submission is an expression of policy, analysis, recommendation, endorsement or position communicated by CBA-NL. A submission represents the position of a particular Section, ad hoc subcommittee, or the CBA-NL as a whole.

The following expressions constitute submissions:

- formal written briefs, resolutions or recommendations;
- correspondence on CBA-NL letterhead;
- correspondence signed by an individual acting on behalf of the CBA-NL or in which the writer describes themselves as being a Branch office holder and may, by inference, be taken as speaking for the CBA-NL or one of its constituent bodies;
- appearances before legislative or municipal committees, other provincial government bodies or officials where one is identified as a CBA-NL office holder; and
- any other oral submissions and public appearances on behalf of CBA-NL.

Preparing a Submission and Content

The ad hoc subcommittee is responsible for consulting and soliciting input from the membership to develop a well-rounded submission.

In preparing a submission it is important to ensure that:

- the appropriate format, spirit and intent is apparent;
- sufficient consultation has occurred within the Section and/or the whole of the CBA-NL membership;
- all aspects of the issue have been canvassed in a balanced manner, and the resulting conclusion represents a consensus;
- where a consensus is not achievable, the submission acknowledges differing interests and opinions;
- the submission is expressed in a language and form which will be understood by its intended audience and, in particular the submission is consistent or compatible with existing CBA-NL and CBA policies;
- the submission describes background and purpose and can be understood without reference to other documentation;
- all conclusions are supported by clearly expressed reasons;
- all conclusions and reasons are well supported by fact, law and policy;
- the tone is dispassionate and objective, reflecting the professionalism and dignity of the CBA-NL;
- the quality of appearance and style is consistent with CBA-NL and CBA standards; and the submission is consistent or compatible with existing CBA-NL and CBA policy.

The Branch Executive Director can provide administrative support in the consultation and preparation of the submission.

See below for submission drafting guidelines.

Approval Process

Provincial submissions require final approval by the Branch Executive Committee. Approval will be granted provided that the following is demonstrated:

- the matter is of compelling public interest or a matter of special significance at the provincial level;
- that the requirements in the above section have been met; and
- the submission is either consistent, or can be reconciled, with previous submissions and the broader interests and concerns of the CBA-NL or the CBA generally.

The Executive Committee may proceed by approving the submission, sending the submission back for further development or consultation, refusing to endorse or any other action that is appropriate under the circumstances.

No unapproved submission may bear the name or logo of CBA or CBA-NL.

Drafting Guidelines

1. Table of Contents
List the topic headings in the submission, with page numbers.
2. Preface
Can be prepared by the CBA-NL Executive Director. It describes the Association and indicates that the submission has been approved as a statement of CBA-NL.
3. Executive Summary
Longer submissions should include an executive summary conveying an overview of key points and the essence of the recommendations.
4. Introduction
Set out the scope of the submission, including the terms of reference. Set out the general approach and philosophy used in the analysis. Summarize the current law on the subject and, if appropriate, how the current or proposed law is inadequate. Briefly identify the major issues considered in the submission.
5. Analysis and Recommendations
Analyze the subject matter, issue by issue. Each issue should be in a separate section and the sections should be ordered in a logical progression. Recommendations should be set apart from the discussion, either at the beginning or end of each section.
6. Citations
All citations should follow the most recent edition of Canadian Guide to Uniform Legal Citation. Case citations should be to one reporting service (preferably to a publicly available source such as CanLII), in footnotes to the text. Citations to unpublished material should indicate the source of the material and where it can be obtained. References to statutory sections should include the full citation and, where possible, the full text of the provision, either in the text or in a footnote.
7. Summary of Recommendations
List the recommendations in a separate section at the end of the submission.
8. Letters
Shorter submissions may take the form of a letter. Letters should follow the drafting guidelines to the extent appropriate for a shorter document.