



ONTARIO COURT OF JUSTICE

JUSTICE OF THE PEACE

EDUCATION PLAN

2018

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Introduction

Formal education for the justice of the peace bench is essential for the judicial system to perform and to maintain public trust and confidence.

The Education Plan for the justices of the peace of the Ontario Court of Justice (OCJ) encompasses both initial education and mentoring of newly appointed justices of the peace, as well as continuing education programs for all justices of the peace.

The goals of the initial education and mentoring program are:

- to develop the personal and professional competence and skills necessary to exercise judicial responsibilities in an independent and impartial manner, and to improve the administration of justice;
- to develop an understanding of the legal issues and substantive law in areas in which a justice of the peace will be required to exercise jurisdiction;
- to preserve and enhance the judicial system's fairness, integrity and impartiality by eliminating bias and prejudice; and
- to develop and maintain a sense of judicial independence and impartiality.

The goals of the continuing education programs are:

- to help members of the justice of the peace bench attain, maintain and advance professional competence;
- to develop and maintain social and cultural awareness in order to preserve and enhance the judicial system's fairness, integrity and impartiality by eliminating bias and prejudice; and
- to encourage personal growth.

Advisory Committee on Education

The coordination of the planning and presentation of education programs is assured by the Advisory Committee on Education (ACE). The Committee includes the Associate Chief Justice Co-ordinator of Justices of the Peace as Chair (ex

officio) and justices of the peace nominated by the Associate Chief Justice Co-ordinator of Justices of the Peace, including two representatives of the Association of Justices of the Peace of Ontario (AJPO) recommended to the Associate Chief Justice by AJPO.

The Senior Advisory Justice of the Peace (SAJP) chairs ACE meetings and is assisted by the Senior Justice of the Peace (SJP), who also sits on the Committee and advises the SAJP on issues pertaining to the education and mentoring of justices of the peace. There is representation from each region on the committee. The Senior Indigenous Justice of the Peace is also a member of the Committee, and is involved in developing education programs designed specifically for Indigenous justices of the peace. Two bilingual (French/English) justices of the peace who are involved in developing education programs specifically for bilingual justices of the peace are also members. Additionally, lawyers for the Office of the Chief Justice and the Centre for Judicial Research and Education (CJRE) serve on the Committee.

ACE provides administrative and logistical support for the education programs presented within the OCJ. Further, education programs are reviewed by ACE, which makes recommendations to the Associate Chief Justice Co-ordinator of Justices of the Peace on changes and additions to existing programs. ACE also makes recommendations on the content and format of new programs as they are being proposed and developed.

The Committee meets approximately four times per year to discuss matters pertaining to education and reports to the Associate Chief Justice Co-ordinator of Justices of the Peace.

Principles

The Justice of the Peace Education Plan has been developed based on the following principles:

1. The Associate Chief Justice Co-ordinator of Justices of the Peace is responsible for establishing a plan for the continuing education of justices of the peace and implementing the plan once it has been approved by the Review Council: s. 14(1) *Justices of the Peace Act*. In turn, the Associate Chief Justice has delegated responsibility for coordinating the development and implementation of education programs to the SAJP.
2. Justices of the peace as professionals are responsible for acquiring and maintaining a knowledge of the legislation and case law which affects their jurisdiction, as well as other relevant information of significance to the

performance of their duties, and for developing and maintaining the skills necessary to perform these duties effectively.

3. Justices of the peace are judicial officers, and all education programs and mentoring are based on that fact.
4. Education is presented in a non-prescriptive manner. The education and mentoring of a justice of the peace involves exposure to the views and practices of many judicial officers who perform judicial functions in a variety of different ways. This allows the new justice of the peace to develop his/her own particular skills in the courtroom setting.
5. Education encompasses a broad variety of topics, including education on legal and jurisdictional issues, an understanding of the role of a judicial officer, ethical issues impacting on judicial conduct, the development of specific skills necessary to perform the functions of a justice of the peace, and the development of an awareness of social and cultural context in which social issues and challenges may arise and manifest themselves in judicial proceedings.
6. Educational programming is an essential and integral component of the work of a judicial officer. It is essential that time and resources be made available for it as a part of the judicial officer's regularly scheduled responsibilities.
7. Education is an ongoing process. Upon completion of the initial education program, ongoing continuing educational programming is required to maintain the standards which have been developed, to strengthen pre-existing skills and knowledge, and to update justices of the peace regarding legislative amendments and case law which affect the jurisdiction of a justice of the peace.
8. Technology is an increasingly significant factor in the delivery of judicial services and education programs. New programming reflects that fact and may incorporate new technologies as teaching tools and delivery methods. Sessions on improving and learning computer skills are included in the Initial Education workshops and the continuing education conferences.

Educational Materials and Resources

a) Materials

On appointment, each justice of the peace is provided with appropriate resource materials and texts, including the *Criminal Code*, *Provincial Offences Act* and *Highway Traffic Act*. Materials are updated periodically, as needed.

Resources

Centre for Judicial Research and Education

Justices of the peace of the OCJ have access to the Ontario Court of Justice CJRE. The CJRE, including a law library and computer research facility, is staffed by legal counsel, together with administrative staff, and is accessible in person, by telephone, e-mail or fax. The CJRE responds to specific requests from judges and justices of the peace for information and research.

In addition, the CJRE provides updates with respect to legislation and relevant case law through its regular publication, *Items of Interest*, which is distributed to every judge and justice of the peace electronically on a bi-weekly basis. This contains links to relevant legislation and websites of interest, including those with decisions of the Supreme Court of Canada and the Ontario Court of Appeal.

Initial Education

The Education Plan is premised on the fact that the justice of the peace bench is a lay bench, and that justices of the peace on appointment usually do not have legal training. The Plan provides each justice of the peace on appointment with nine weeks of intensive workshops. These workshops are supported by a formal program of mentoring which is provided by experienced justices of the peace.

The format includes lectures, small group discussion, case studies, role-playing videos, live demonstrations, writing and communication exercises. All workshops are designed to be highly participatory and interactive.

Particular attention is paid to incorporating adult education principles in the design and delivery of the programming. The programming is both practical and relevant, employing a skills-based, hands-on approach to delivery. Resource people and faculty members include experienced justices of the peace and judges, law professors, crown counsel, lawyers in private practice with expertise in specific areas of the law and others with relevant knowledge.

Intensive Workshops

a) Intake Court

There are two workshops devoted to general intake court responsibilities. Topics include commencement of proceedings in both criminal and provincial offences, introduction to search warrants, the effect and enforcement of recognizances of bail, *Mental Health Act* orders for examination, *Child and Family Services Act* warrants of apprehension, subpoenae, weapons disposition and prohibition hearings and an introduction to criminal set date court.

b) Search and Seizure

This workshop is an intensive program in all aspects of search warrants which may be issued by a justice of the peace. It reviews the legislation and case law under s. 487 of the *Criminal Code*, s. 11 of the *Controlled Drugs and Substances Act*, and other federal and provincial statutes, including s. 8 of the *Charter of Rights and Freedoms*.

c) Judicial Interim Release Workshops

The two judicial interim release workshops provide an in-depth review of all aspects of the bail process. Time is spent in these workshops reviewing bail hearing scenarios. Discussions include whether an accused person should be detained and, if released, the type and conditions of release. Specific attention is given to domestic violence issues. The remainder of the workshops is spent in lectures, discussions, and demonstrations of the various proceedings relating to judicial interim release.

d) Good Judgment

Coming to a decision in a judicial proceeding is the essence of the judicial role. A justice of the peace must learn to assess, filter and sort evidence. The role of precedent must be considered and applied. Legal principles must be interpreted.

This seminar blends lectures and case scenarios. Topics covered include the transition to the bench, judicial conduct and ethical principles, structure of the courts, the role of precedent in the common law; the adversarial system; onus and standards of proof; judicial independence and impartiality; and discrimination and harassment.

e) Provincial Offences Act Trials

There are three intensive workshops on the trial of an offence under the *Provincial Offences Act*. The sessions focus on relatively straightforward trials that comprise the majority of the trials over which justices of the peace preside. Such trials are typically completed in a single day or less, with an oral judgment delivered at the conclusion of the trial. Defendants may be self-represented or represented by a lawyer or licensed paralegal. Lectures, case studies, discussion groups and demonstrations are used to present the topics in this workshop.

Specific topics covered include the roles of the prosecutor, defendant and justice of the peace; the presumption of innocence; proof beyond a reasonable doubt and findings of credibility; elements of an offence; guilty pleas to an offence charged or another offence; *mens rea*, strict liability and absolute liability offences; defences to regulatory charges, including due diligence, reasonable mistake of fact and officially induced error; trial procedure; presentation of evidence; rules of evidence; the *voir dire*; self-represented defendants; *Charter* applications; access to justice issues; paralegals and lawyers in the courtroom; requests for a bilingual trial; articulating reasons for judgment; delivery of a judgment; sentencing; and trials of young persons.

Mentoring

In addition to the workshops described above, a core element of education for newly appointed justices of the peace is the mentoring program. The program involves the new justice of the peace working, usually on a one-on-one basis, with a more experienced justice of the peace who has been designated as a mentor in consultation with the SAJP, SJP and applicable Regional Senior Justice of the Peace (RSJP). The mentor's primary responsibility is to assist the new justice of the peace in making the transition to the bench and acquiring the knowledge and skills necessary to carry out his or her judicial responsibilities.

The mentoring program is integrated into the intensive workshops. Both mentors and the newly appointed justices of the peace are provided with detailed checklists of the duties to which a newly appointed justice of the peace should be exposed and about which they should learn before attending the relevant intensive workshop. Thus, the two core elements of initial education – mentoring and the intensive workshops – complement and support one another.

Mentoring is provided with regard to the various duties justices of the peace perform, including those in intake, bail, assignment and provincial offences courts. Different justices of the peace may be involved as mentors at different stages of the program. The period of time a new justice of the peace spends in a mentoring

program varies among the new appointees depending on individual needs, but can last up to 12 months.

In order to strengthen the mentoring program, the OCJ offers a number of workshops for mentors. These workshops focus on issues faced by mentors in order to encourage consistency in education across the various parts of the province. They also include discussions of the mentoring process itself, including various mentoring and adult education techniques which may be of assistance in facilitating the learning process for new justices of the peace.

Continuing Education

Continuing education supports the on-going professional development of the justice of the peace bench. Various materials and programs are provided on an ongoing basis to facilitate this process. As with the Initial Education programming, the emphasis in continuing education is on experiential methods of adult education.

Continuing education programs give every justice of the peace an opportunity of having a minimum of six days of continuing education per calendar year. This programming deals with a wide variety of topics, including: substantive law, evidence, *Charter of Rights*, skills training and social context education. There is an emphasis on utilizing faculty drawn from the ranks of the justice of the peace bench – illustrating a reliance on peer-to-peer education. To strengthen the teaching and facilitation skills of these faculty members, workshops are offered which focus on learning adult education teaching technique and skills.

While the programs are developed and presented by judges and justices of the peace of the Court, frequent use is made of outside resources in the planning and presentation of programs. Lawyers, judges, government and law enforcement officials, academics, and other professionals have been used extensively in most education programs.

Annual Spring and Fall Conferences

The cornerstone of the continuing education program for justices of the peace is the holding of annual spring and fall conferences. Each conference is offered twice in order to accommodate all members of the bench. Every justice of the peace is assigned to attend one of these conferences in both the spring and the fall of each year. Each of these conferences is three days in length. The conferences use a combination of lectures, educational fact scenarios and videos, panel discussions, demonstrations and small group discussions.

The topics covered at these conferences are wide ranging and vary from year to year. Specific topics which have been covered in recent conferences include judicial ethics; interpreters; delivering reasons for judgment; assessing credibility; social media; technology and search warrants; managing a provincial offence trial; effectively communicating an oral judgment; risk assessment and indicators of lethality at bail hearings; the *Youth Criminal Justice Act*; eye-witness identification; conducting pre-trials; specific issues at trials of regulatory offences; fly-in-courts, residential schools; judicial interim release; charter issues; application of *Gladue* principles; mistrials and bias; accident reconstruction; search warrant issues, including online crime; domestic violence issues; orders for examination under the *Mental Health Act*; child apprehension warrants under the *Child and Family Services Act*; evidentiary issues; discrimination and harassment in the workplace; cultural sensitivity; stress management; and pre-retirement planning.

Indigenous Workshop

The Indigenous Workshop is an annual three-day workshop to which all Indigenous justices of the peace are invited. These workshops focus on a mix of substantive legal issues and other non-legal issues relevant to Indigenous justices of the peace.

Resource people have included judges, experienced justices of the peace, counsel from the Crown Law Office – Criminal and the Crown Law Office – Civil as well as other lawyers in the Ministry of the Attorney General, lawyers in private practice, Indigenous elders and representatives of various Indigenous organizations.

Specific topics covered at recent Indigenous workshops include search and seizure; bail; private prosecutions; avoiding conflicts in small communities; and rights of Métis.

French Language Workshop

A three-day intensive workshop is offered to bilingual justices of the peace once a year. The workshop, for both participants and presenters, is conducted entirely in French.

Resource people have included judges, experienced justices of the peace, law professors, legal translators, and prosecution and defence counsel.

A core part of each workshop is the enhancement of the use of French legal terminology. Recent topics have included discussions of Anglicisms in French; the legal obligations of the court to provide French or bilingual services; and delivering oral judgments in French.

Computer Training

All justices of the peace are provided with a laptop computer. Both Initial Education programs and continuing education provide basic education in online legal research resources. Computer skills and computer literacy vary greatly among justices of the peace. The ability to function effectively in an electronic environment has become increasingly important.

Items of Interest provides significant access to online resources and is designed to facilitate electronic research of case law and legislation. Computer education is offered at the spring and fall conferences and continues to be provided on an as-needed basis.

Specialized Workshops

In addition to the regularly scheduled programs, the Court also offers specialized workshops on a variety of topics, including: pre-retirement, judicial administration, mentoring, and facilitating education programming.

Regional Meetings

The OCJ is divided into seven regions for the purposes of judicial administration. All regions hold annual regional meetings. While the meetings principally provide an opportunity to deal with regional administrative and management issues, they also have an educational component which is based on local/regional needs and issues.

Self-directed Learning

In addition to the educational programs outlined above, ongoing education of justices of the peace continues to be self-directed and is encouraged and effected through continuing peer discussions and individual reading and research.

External Conference Policy

The Office of the Chief Justice partially reimburses justices of the peace, at the request of the justice of the peace, for expenses incurred in attending workshops or conferences offered by outside sources. This funding is available for workshops or conferences which assist the justice of the peace in performing his or her assigned duties. The External Conference Committee of the OCJ receives and considers applications from justices of the peace to attend these programs.