

ONTARIO COURT OF JUSTICE

CONTINUING EDUCATION PLAN

2020 – 2023

PREAMBLE

Control over judicial education is within the sole purview of the Ontario Court of Justice. Independence of the judiciary is a cornerstone of the rule of law. By ensuring an impartial judiciary, judicial independence protects the public and assures the fundamental precept of the presumption of innocence.

GOALS OF CONTINUING EDUCATION PLAN

The goals of continuing education for the judges of the Ontario Court of Justice are as follows:

1. Maintaining and developing professional competence;
2. Maintaining and developing social awareness.¹

The *Courts of Justice Act* requires the Chief Justice of the Ontario Court of Justice to establish a plan for the continuing education of provincial judges.² In establishing a Continuing Education Plan, the Chief Justice ensures the professional and personal development of judges and the growth of their social awareness through the programming designed, developed and offered by the Ontario Court of Justice and other programming offered by judicial and education organizations available to the judges of the Court.³

The Continuing Education Plan provides each judge with an opportunity of having approximately ten days of continuing education per calendar year dealing with a wide variety of topics, including substantive law, evidence, the *Canadian Charter of Rights and Freedoms*, skills development and social context. While many of the programs

¹ *Courts of Justice Act*, s. 51.10(3)

² *Courts of Justice Act*, s. 51.10(1)

³ *Courts of Justice Act*, s. 51.9(3)

attended by the judges of the Ontario Court of Justice are developed and presented by the judges of the Court themselves, frequent use is made of outside resources including external experts and faculty in the planning and presentation of programs. Lawyers, government and law enforcement officials, academics, and other subject matters experts and professionals have been used extensively in most education programs. In addition, judges are encouraged to identify and attend external programs of interest and benefit to themselves and the Court.

The Ontario Court of Justice has presented significant programs dealing with social context and awareness in the last thirty years. Our approach to social context education has changed and matured since these courses were first offered. As a result of our experience with these stand-alone programs, social context education is now seamlessly integrated into most of the programs presented by the Education Secretariat and the Ontario Court of Justice. Social context issues related to equity, diversity, and inclusion are now addressed in most of our programming including topics such as cultural competence, awareness of unconscious bias, domestic violence, sexual assault law, anti-black and indigenous discrimination and racism and the experience of vulnerable populations that are overrepresented in the criminal justice system.

EDUCATION SECRETARIAT

The coordination of the planning and presentation of education programs offered by the Court is assured by the Education Secretariat. The Chief Justice and the Association of Ontario Judges have shared roles and responsibilities for judicial training and education. The Memorandum of Understanding between the Chief Justice and the Association of Ontario Judges states that “education programming and policy-making for all continuing education and training programs for the judiciary

shall be coordinated through the Education Secretariat.”⁴The Education Secretariat is committed to the importance of education in enhancing professional excellence. Judicial education serves to maintain and encourage standards of integrity, impartiality and independence as detailed in the Ontario Court of Justice *Principles of Judicial Office*⁵ and the Canadian Judicial Council’s *Ethical Principles for Judges*.⁶

The Secretariat’s mandate is:

- To promote education that encourages judges to be reflective about their professional practices;
- To increase judges’ substantive knowledge, skills and awareness of social context issues;
- To support programs which maintain and enhance social, ethical and cultural sensitivity and awareness including equity, diversity, inclusion and Indigeneity; and
- To ensure judges engage in ongoing, lifelong and self-directed learning.⁷

The goals of the Education Secretariat are:

1. To stimulate continuing professional and personal development;
2. To ensure that education is relevant to the needs and interests of the judiciary and the public that they serve;

⁴ Memorandum of Understanding Between the Chief Judge of the Ontario Court of Justice (Provincial Division) and the Ontario Judges Association and the Ontario Family Law Judges Association

⁵ <http://www.ontariocourts.ca/ocj/ojc/principles-of-judicial-office/>

⁶ https://www.cjc-ccm.gc.ca/cmslib/general/news_pub_judicialconduct_Principles_1998_en.pdf

⁷ In 2011, the Education Secretariat approved a schedule of judicial qualities and abilities that should be supported and developed through education. This schedule has proved helpful in assisting to design and develop the Court’s education programs. It can be found in Appendix A of the Continuing Education Plan.

3. To support and encourage programs that maintain high levels of competence and knowledge in matters of evidence, procedure, substantive law and judicial skills including technological competence;
4. To develop and deliver programs that increase knowledge and awareness of social context issues and the communities in which judges preside. Specifically, programs will be designed with the goal of increasing knowledge and awareness of the diversity of the population and community resources that may assist and complement the work of the judges of the Ontario Court of Justice;
5. To foster the active recruitment and involvement of the judiciary at all stages of program design, development, planning, delivery and evaluation;
6. To promote an understanding amongst judges of the necessity developing their knowledge and skills throughout their judicial careers;
7. To facilitate the desire for life-long learning and reflective practices;
8. To establish and maintain structures and systems to implement the mandate and goals of the Secretariat; and
9. To evaluate the educational design and development process and programs offered to ensure they meet the standards set out in the Continuing Education Plan.

The Education Secretariat provides administrative and logistical support for the education programs presented within the Ontario Court of Justice. In addition, all education program plans are presented to and approved by the Education Secretariat.

The composition of the Secretariat is as follows: the Chief Justice as Chair (*ex officio*), four judges nominated by the Chief Justice and four judges nominated by the Association of Ontario Judges. Counsel of the Ontario Court of Justice and a Counsel, Judicial Education of the National Judicial Institute serve as consultants. The Secretariat meets approximately five times per year to discuss matters pertaining to education and reports to the Chief Justice.

The current education plan for judges of the Ontario Court of Justice is divided into two parts: education for newly appointed judges and continuing education for all judges.

1. EDUCATION AND RESOURCES FOR NEWLY APPOINTED JUDGES

All new judges appointed to the Court are required to attend new judges' education programming. Newly appointed judges' education incorporates instruction on substantive legal issues, the law of evidence and procedure, judicial ethics, judgment writing, courtroom management and social context and awareness issues.

The education required for newly appointed judges includes the following:

- i. **New Judges' Orientation Program:** The Ontario Court of Justice organizes a four-day orientation program for newly appointed judges shortly after their appointment which deals with practical matters relating to the transition to the bench, including, but not limited to, judicial conduct and ethics, social context issues, courtroom management, the use of technology, and administrative procedures.
- ii. **Newly Appointed Provincial and Territorial Judges Skills Program:** New judges attend a five-day intensive program jointly presented by the Ontario Court of Justice, the National Judicial Institute and the Canadian Association of Provincial Court Judges. The program focuses on judicial skills training and is offered in general once a year or more often as needed. The program includes sessions on the delivery of judgments (both written and oral), issues related to self-represented accused, managing the courtroom, communication skills, judicial ethics, wellness, and the effective conduct of a judicial pre-trial.

- iii. **Canadian Association of Provincial Court Judges New Judges' Education Program:** New judges attend a six-day New Judges' Education Program presented annually by the Canadian Association of Provincial Court Judges. This intensive one-week program is largely substantive in nature and is oriented to criminal law.
- iv. **Shadowing Period:** Upon appointment, each new judge is assigned by the Chief Justice to one of the seven regions of the Province. The Regional Senior Judge for that region is then responsible for assigning and scheduling the new judge within the region. Depending on the new judge's background and experience at the time of appointment, the Regional Senior Judge will assign the newly appointed judge for a period of time (usually several weeks prior to swearing-in) to observe senior, more experienced judges and/or specific courtrooms. During this period, the new judge sits in the courtroom, attends in chambers with experienced judges and has an opportunity to become familiar with his or her new responsibilities. Recognizing that judges have different learning needs, the length of this period of "shadowing" depends on the requirements of each new appointment and serves as a *de facto* mentoring program for new judges.
- v. **Mentoring Program:** A formal Mentoring Program was introduced in 2018 as a way to give all new members of the Ontario Court of Justice the ability to access the collective wisdom, experience and culture of the bench, while reinforcing the independence and ethical responsibilities of judicial officers. The Association of Ontario Judges and the Chief Justice worked together to develop this program. The Mentoring Program is supported administratively by a Mentoring Committee, comprised of judges from

various regions of the province. Participation in the Mentoring Program is voluntary on behalf of both mentees and mentors.

Each judge of the Ontario Court of Justice is provided with a series of texts in print or electronic format and materials upon appointment in order to help them with their appointment to the bench, including:

- *Writing Reasons: A Handbook for Judges*, 5th edition, Edward Berry
- *Commentaries on Judicial Conduct* (Canadian Judicial Council)
- *Ethical Principles for Judges* (Canadian Judicial Council)
- Precedents for both criminal and family benchbooks
- *Tug of War: a Judge's Verdict on Separation, Custody Battles, and the Bitter Realities of Family Court*, Justice Harvey Brownstone (family judges only)
- *Watt's Manual for Criminal Jury Instructions*, 2nd edition, Justice David Watt
- *Law of Evidence*, 8th edition, Justice David Paciocco and Lee Stuesser

A Library Committee of the Court develops a list of texts and reporting services including electronic from which each judge is permitted annually to select materials for their personal chamber's library. Newly appointed judges also have access to Judicial Library Services which offers library orientation and online resources training.

Newly appointed judges are also encouraged to attend all education programs relating to their fields of specialization presented by the Ontario Court of Justice. These programs are outlined under the heading "Continuing Education."

2. CONTINUING EDUCATION

(A) CORE PROGRAMS ADMINISTERED BY THE EDUCATION SECRETARIAT

The programs presented by the Education Secretariat and the Association of Ontario Judges constitute the core education programs of the Ontario Court of Justice education curriculum. Part of the core programming occurs annually and is presented “as needed.” All judges of the Court are entitled and encouraged to attend these programs.

The Association of Ontario Judges selects a chair of criminal law education and a chair of family law education. The chairs, in turn, may create a support committee to advise and assist them in putting together the core education programs.

Seven family and criminal programs including an Annual General Meeting (AGM) are presented each year with a changing curriculum to reflect the educational needs of the Court. These programs are open to every criminal and family judge in accordance with their area of practice. They are described below:

- i. **Family Programs:** There are two family education programs. The Judicial Development Institute in the winter focuses on family law, and the Annual Family Law Program in the fall focuses on child protection. In general, principal topics in family law include issues of decision-making, parenting time and child/spousal support. Principal topics in child protection include amendments to the child protection and federal indigenous legislation, extended care and access, and openness. Additional topics involving skills development, case management, other legislative changes, the child’s voice in both family and child protection cases, unique evidentiary issues, domestic and family violence, social context including the experience of

vulnerable populations that are overrepresented in the criminal justice system and other areas are incorporated as the need arises. Each program is of three days' duration and is open to any judge who spends a significant amount of his or her time presiding over family law matters. A family law education component is also included in the Annual General Meeting of the Ontario Court of Justice held each year in May, emphasizing the intersection between family and criminal issues.

- ii. **Criminal Programs:** There are four major criminal law education conferences presented each year in the fall as two-and-a-half day Regional Seminars covering a wide range of topics in the area of criminal law. Four separate agendas, integrating substantive law, skills and social context issues, are developed to be responsive to the issues found in each region. Topics include, but are not limited to: sentencing, assessing credibility, judgment writing, managing judicial pre-trials, the decision making process, probation orders, search warrants, sexual assault law and special procedures (s. 276/278 of the Criminal Code of Canada), the meaning of consent in sexual assault cases, domestic violence, the law of firearms, the open court principle, victim's rights and publication bans in sexual assault cases, *Charter* issues, scientific evidence, and equity, diversity and inclusion issues related to bias and race in the justice system including indigenous, anti-black racism, addiction and mental health context.
- iii. **Annual General Meeting (AGM):** A two-and-a-half day education seminar is presented annually in May in conjunction with the Annual General Meeting of the Ontario Court of Justice. Topics include, but are not limited to: the impact of conscious and unconscious biases in the courtroom; confronting and addressing harmful stereotypes in judicial adjudication; the authentication and admissibility of digital evidence in both criminal and

family proceedings; legal protocols and best practices for remote hearings; meaningful management of self-represented litigants; sexual assault law and special procedures (s. 276/278 Criminal Code of Canada); understanding and addressing mental health issues in the courtroom, developing effective judicial communication skills, case, courtroom and time management, the accommodation of witnesses with special needs, youth criminal justice and family law issues; publication bans and the open court principle, *Charter* developments and privacy issues, *Gladue* and Indigenous justice / cultural context issues, and specialized courts,.

(B) ADDITIONAL PROGRAMS BY THE ONTARIO COURT OF JUSTICE

A variety of additional programs are presented annually or biannually with limited enrolment. They fulfil a variety of education needs such as the development of judicial skills and leadership and social context training. Particulars of some of the programs offered are set out below.

- i. **Managing Judicial Pre-Trials:** This workshop, which was first offered in 2016 and delivered again in 2017 and 2018, has the objective of equipping participants with the skills necessary to conduct effective pre-trials, with the goal of reducing trial continuations and trial collapse rates using a variety of skills-based learning tools, including videos, panel discussions and break-out groups and simulations. Elements of this program have been incorporated in other Court programs, reflecting the importance of education on the conduct of effective pre-trials. The program will be offered again in March 2023.
- ii. **Judicial Administration Conference:** This is an occasional conference held over three days, typically held every two years. It brings together administrative judges of the Ontario Court of Justice. The program was most recently

delivered in December 2022 to a group of Local Administrative Judges of the Court. The curriculum included sessions on leading change, developing skills for managing people, and implementing the Court's current modernization initiatives.

Pre-Retirement Seminar: This program assists judges and their partners in their retirement planning. The one-and-one-half day program deals with the social and financial issues that arise in the transition from the bench to retirement. This seminar is presented every two years and was most recently delivered in January 2023.

- iii. **Specialized Programs:** The Ontario Court of Justice offers specialized programs on a variety of topics, as needed. Recent programs include Truth and Reconciliation programming by the Indigenous Initiatives Advisory Committee delivered in September, 2022 and Black History Month programming by the Equity, Diversity and Inclusion committee delivered in February, 2023.

The Ontario Court of Justice also recognizes that technology is an increasingly significant factor in the delivery of judicial services and education programs, requiring judges to have considerable technological competence. Ontario Court of Justice education programming reflects that fact and incorporates new technologies as teaching tools and delivery methods. Sessions on improving and learning computer and relevant software skills are included in the New Judges' Orientation Program and other continuing education programs.

(C) EXTERNAL EDUCATION PROGRAMS

Judges of the Ontario Court of Justice are encouraged to pursue educational interests by attending programs presented by other organizations and associations. The Education Secretariat has established a Conference Attendance Committee to consider applications by individual judges for funding assistance to attend conferences/seminars/programs other than those presented by the Ontario Court of Justice.

i. National Judicial Institute (NJI)

The NJI is a world leader in the development and delivery of judicial education programs. Since 2002, the Ontario Court of Justice, through its Education Secretariat, has made a financial contribution to the NJI in return for receiving dedicated education assistance from a NJI Counsel, Judicial Education. This relationship has given many judges of the Ontario Court of Justice the opportunity to work on the development of innovative programming and to serve as faculty for the delivery of that programming across the country. They are then able to bring their expertise back to the Court to the benefit of all aspects of the education portfolio. This corresponds with the goals of the Education Secretariat to foster the active recruitment and involvement of the judiciary at all stages of program design, development, planning, delivery and evaluation. Our judges are our Court's education leaders.

In 2022, the NJI, together with the Canadian Judicial Council and the Canadian Council of Chief Judges entered into an MOU recognizing the importance of seeking to ensure the participation of Provincial and Territorial Court Judges, alongside federally-appointed Judges, at NJI national programs, in order to promote the capacity and competence of the judiciary which is facilitated by the sharing of knowledge and experience among all Canadian judges. As a result,

Ontario Court of Justice judges have enhanced access to NJI programs and resources including NJI's extensive library of digital resources. NJI's Judicial Library includes self study courses, guides, electronic bench books, on-demand webinars, and podcasts covering topics such as criminal law and family law fundamentals, evidence, youth criminal justice, sexual assault law and social context, intimate partner and family violence, and judgment writing.

Judges may also attend NJI programs such as:

- Communicating Effectively in Your Courtroom
- Indigenous Law Seminar
- Criminal Law Seminar
- Family Law Seminar
- Oral Judgments
- Judges to Jails
- Judging Better, Judging Smarter
- Evidence Workshop
- Hearing and Deciding Charter Issues
- Survive and Thrive: Decision-Making and Judicial Productivity

ii. French-Language Courses

Judges of the Ontario Court of Justice who are proficient in French may attend one of two courses: one presented by the Office of the Commissioner for Federal Judicial Affairs (French Legal Terminology Session for French-speaking Judges), the other is a skills-based course developed by the Province of New Brunswick (Français Juridique) and offered annually in that province. The frequency and duration of the courses are determined by the judge's level of proficiency. The purpose of the courses is to assure and to maintain the French language proficiency of those judges who are called upon to preside over French language

matters in the Ontario Court of Justice. There are two levels of French-language courses: Terminology courses for bi-lingual judges and terminology courses for (bilingual) judges. This program is offered annually.

iii. **Canadian Association of Provincial Court Judges**

In accordance with the Memorandum of Understanding between the Chief Justice and the Association of Ontario Judges⁸, the Ontario Court of Justice annually sends some judges selected by the Association to the annual meeting and education program of the Canadian Bar Association and the Canadian Association of Provincial Court Judges.

OTHER EDUCATIONAL RESOURCES

1. **Centre for Judicial Research and Education (CJRE):** The Centre is a law library and computer research facility located in Toronto and staffed by research lawyers. It is accessible to judges in person, by telephone or e-mail. The Centre responds to specific requests from the judiciary for research assistance and provides Items of Interest (IOIs) – bi-weekly updates with respect to legislation and relevant case law.
2. **Judicial Library Services:** All judges of the OCJ have access to Judicial Library Services. Judicial Library Services provides library research and support services. In addition, Judicial Library Services offers library orientation and online resources training.

⁸ Memorandum of Understanding Between the Chief Judge of the Ontario Court of Justice (Provincial Division) and the Ontario Judges Association and the Ontario Family Law Judges Association

3. **Self-Funded Leave:** In order to provide access to educational opportunities that fall outside the parameters of regular judicial education programs, the Ontario Court of Justice has developed a self-funded leave policy that allows judges to defer income over a period of years in order to take a period of self-funded leave of up to twelve months. Prior approval is required for such leave.
4. **Self-Directed Education:** In addition to the fundamental education outlined above, judges continue to be self-directed through peer discussions and individual reading and research.

Appendix A

Judicial Abilities and Qualities

1. Knowledge and Technical Skills

- Sound knowledge of the law, procedure and their application.
- Rapid mastery of unfamiliar areas of law.
- Maintains bilingual skills.

2. Communication and Authority

- Listens and communicates effectively.
- Establishes and maintains authority of the court.
- Manages hearing to enable fair and timely disposal.

3. Decision making

- Sound judgment.
- Appropriate exercise of discretion.

4. Professionalism and Civility

- Maintains independence and authority of the court.
- Maintains personal independence and integrity.
- Promotes highest standards of behaviour in court.

5. Effectiveness

- Manages hearings to facilitate fair and timely disposal.
- Actively manages cases to promote effective and just conclusion of business.
- Applies technologies to effectively manage cases.

6. Leadership Skills for *Puisne* Members of the Judiciary

- Sets tone for the court and courthouse.
- Shows interest in upholding a positive image of the organization.
- Demonstrates ethics, collegiality and support of colleagues.

7. Leadership & Management Skills for Administrative Judiciary

- Strategically plans and organizes.
- Manages change.
- Supports and develops talent.
- Manages judicial resources.
- Encourages and facilitates teamwork.

This list was adapted from: U.K. Judicial Studies Board, Framework of Judicial Abilities and Qualities, October 2008.