

Mentoring Counsel

Part 1: Introduction

LSS promotes mentoring within the tariff bar.

The authorization and billing guidelines below cover two types of mentoring - mentoring assistance and apprentice counsel.

Part 2: Mentoring Assistance

LSS will support tariff lawyers with less than five years' call, or who have been practising in the relevant area of law for less than five years, to obtain mentoring assistance on their LSS cases from experienced counsel. The mentor is expected to provide the mentee with a valuable learning experience.

The authorization will allow the experienced lawyer to spend up to 10 hours at the applicable tiered rate to provide guidance on trial-related matters such as drafting documents, witness preparation, expert evidence preparation, trial preparation, case strategy, and advocacy skills. This may include attendance in court to observe performance and provide feedback.

Authorization guidelines

Mentoring assistance is designed to help lawyers as they begin to take on more serious cases with greater procedural or substantive complexity. It is generally not intended to help lawyers with short, relatively straightforward cases, but LSS will evaluate each request in light of the nature of the case, the lawyers' experience levels, and the likely benefits of mentoring assistance. While the maximum is 10 hours, LSS may authorize less than 10 hours to ensure that the level of mentoring assistance provided is proportionate to expected time demands of the case.

The proposed mentor should be a lawyer and LSS vendor with at least 10 years' experience in the relevant practice area, and with significant experience in the type of case for which the mentoring assistance is requested. LSS will retain discretion to issue authorizations based upon the circumstances of the case and the qualifications of the proposed mentor.

LSS will consider requests for the mentor to provide assistance to the mentee remotely, where suitable.

Criminal

Lawyers might seek mentoring assistance in the following types of cases:

- a solo trial involving more complex charges than the lawyer has defended in the past (for example, sexual assault or impaired driving),
- a case involving forensic expert evidence,
- a case involving pre-trial motions to resolve complex Charter or evidentiary issues, or
- an indictable appeal in the Court of Appeal.

Family and CFCSA

To be eligible for mentoring assistance, the issues must fall within the scope of the *Family or CFCSA Tariffs*. The case must also include features that would provide the mentee with an opportunity to learn and develop their advocacy skills, such as a case involving:

- multiple parties, such as biological parents and grandparents,

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- cultural complexities,
- the Hague convention,
- both the Family Law Act and CFCSA,
- complex pre-trial motions,
- novel or complex legal questions,
- complicated fact scenarios,
- expert evidence,
- continuing custody order hearings,
- a high need for strategic judgment,
- opportunities for meaningful cross-examination,
- high-needs clients including those with mental health issues,
- high profile elements, or
- a complex appeal or judicial review of a judgment (requires a specific contract for this issue).

Immigration

Given the limits on LSS funding and the scope of the *Immigration Tariff*, mentoring authorizations will only be considered in exceptional circumstances, for example:

- a complex refugee claim involving exclusion issues such as war crimes or serious criminality,
- a case where the Minister of Immigration intervenes, or
- a complex judicial review application or appeal.

Part 3: Apprentice Counsel

Lawyers with less than five years' call, or who have been practising in the relevant area of law for less than five years, may arrange with an experienced lawyer to act as apprentice counsel on one of the experienced lawyer's LSS cases. The purpose is to offer a practical learning experience to the apprentice lawyer, rather than provide the experienced lawyer with junior counsel for the case.

LSS will authorize the apprentice counsel to bill at a rate of \$41.95 per hour, while the experienced lawyer may bill at the applicable tiered rate for time spent mentoring.

LSS will authorize up to a maximum of 75 hours for the apprentice counsel, including preparation and court attendance, and 15 hours for the mentor. Within those limits, LSS will authorize an appropriate number of hours given the nature of the case, the hours approved for the case as a whole, and the extent of available funding. In shorter cases, the apprentice counsel may be involved throughout the preparation and hearing stages, while in longer cases the apprentice could be more selectively engaged. For example, in a criminal case involving wiretap evidence, the apprentice might seek authorization to work on the voir dire only. It will be up to the two lawyers to decide how to allocate the apprentice counsel's time on each case so as to maximize learning opportunities within the limits of the authorization.

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Authorization guidelines

The proposed mentor should be a lawyer and LSS vendor with at least 10 years' experience in the relevant practice area, with significant experience in the type of case for which the apprentice counsel authorization is sought.

In determining whether to authorize apprentice counsel, LSS will consider whether the proposed case is likely to afford a worthwhile learning opportunity for the apprentice counsel. In general, LSS will take into account the:

- issues in the case,
- nature, amount, and complexity of the evidence,
- expected number of substantive witnesses,
- scheduled number of court days,
- qualifications of the proposed mentor,
- experience level of the proposed apprentice counsel, and
- proposed allocation of the apprentice counsel's hours to promote learning.

LSS expects that the apprentice counsel's time will be reasonably apportioned between preparation tasks and court or hearing attendance to observe and practice advocacy skills.

In criminal cases, LSS will give priority to requests for apprentice counsel for:

- jury trials,
- trials for major level offences,
- dangerous offender proceedings, and
- cases involving pre-trial motions to resolve complex Charter or evidentiary issues.

In family, child protection, and immigration cases, LSS will authorize apprentice counsel only in unusually complex cases.

Part 4: Seeking Authorization for Mentoring Assistance and Apprentice Counsel

To request authorization for mentoring assistance or apprentice counsel, lawyers should submit an authorization request via LSS Online. LSS will not grant retroactive authorization, so counsel should submit their requests well in advance.

The request should include the following information:

- the names and years of call of the mentor and mentee/apprentice,
- confirmation that the experienced lawyer has agreed to act as a mentor,
- a description of the mentor's qualifications to provide guidance in the particular case, including years of experience in the practice area and experience with the type of case for which authorization is sought,
- a description of the mentee/apprentice's experience in the practice area, and with the type of case for which authorization is sought,
- a description of the nature of the case (issues, evidence, and expected length of the proceeding),

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- an explanation of why mentoring assistance or apprentice counsel is appropriate for the case, and what the lawyer expects to learn,
- for apprentice counsel requests, a description of how the apprentice counsel's hours will be allocated to promote learning, and
- the number of hours requested.

The more detail the request for authorization provides, the easier it will be for LSS to review. LSS will assess the request, and may issue an authorization for an appropriate number of hours to the lawyer who has the representation contract for the case.

Approval of authorization requests is subject to available funding. LSS retains discretion to determine who is eligible for a mentoring or apprentice opportunity and who is qualified to serve as a mentor.

If you are interested in a mentoring opportunity, but need help finding a suitable mentor, LSS may be able to assist you. Please contact Lawyer Support at lawyer.support@lss.bc.ca.

Part 5: Extra Fees

LSS will not authorize extra fees for mentoring assistance and apprentice counsel. Counsel should take care to select cases where the authorized hours are appropriate given the expected time demands of the case.

Part 6: Invoicing

Disbursements are generally not payable for mentoring assistance or apprentice counsel services.

Lawyers should maintain accurate time records, and all invoices should include a detailed breakdown of the hours claimed and how the time was spent.

For mentoring assistance, the mentee should bill LSS for the mentor's fees as an Alternative Service Provider, and then pay the mentor directly.

For apprentice counsel, the mentor should bill LSS for their own mentoring time and bill the apprentice's fees as an Alternative Service Provider, and then pay the apprentice counsel directly.

If you have any questions, please contact Lawyer Support at lawyer.support@lss.bc.ca.

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History

Questions to: Manager, Criminal, Immigration and Appeals or Manager, Family Law Services

February 5, 2019: Reformatted and revised. Revisions include: changed mentoring and apprentice guidelines to include lawyers who have been practising in the relevant area of law for less than five years; added ability for remote mentoring assistance where suitable; expanded guidelines for Family and CFCSA mentoring assistance; and updated invoicing procedures.