



National Discipline Standards

Frequently Asked Questions (FAQs)

1. What are National Discipline Standards?

A core function of Canada's law societies is to receive and investigate complaints about the conduct of members of the legal profession and if necessary, to impose disciplinary sanctions.

The National Discipline Standards are a new set of aspirational benchmarks designed to promote uniformly high standards for how law societies handle complaints and discipline processes for members of the legal profession.

2. Why develop National Discipline Standards?

The National Discipline Standards are a tool designed to help maintain and improve timely, transparent, and consistent investigation of complaints and disciplinary hearings.

The standards reflect law societies' recognition of the importance of having discipline processes that are consistent, timely, efficient, and transparent in order to protect the public and foster public confidence in the regulation of the practice of law.

3. What do the standards currently measure?

The standards address such issues as timeliness (e.g., the time it takes to resolve a complaint or hold a hearing), public participation, transparency (e.g., hearings are open to the public and reasons are given for a decision to close a hearing), accessibility, and the qualification and training of adjudicators and investigators. There are 21 standards in all.

4. What bodies do the standards apply to?

All 14 Canadian law societies have adopted the standards:

- The Law Society of British Columbia
- The Law Society of Alberta
- The Law Society of Yukon
- The Law Society of Saskatchewan
- The Law Society of Manitoba
- The Law Society of the Northwest Territories
- The Law Society of Nunavut
- The Law Society of Upper Canada
- The Barreau du Québec
- The Chambre des notaires du Québec
- The Nova Scotia Barristers' Society
- The Law Society of New Brunswick
- The Law Society of Prince Edward Island
- The Law Society of Newfoundland and Labrador

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5. Who developed and approved the National Discipline Standards?

The project to develop national standards for the handling of complaints and discipline matters was launched in 2010 by Canada's law societies through the Federation of Law Societies of Canada ("Federation"). A National Discipline Standards Pilot Project Steering Committee ("Steering Committee") was appointed by the Federation Executive and included a public representative. The standards were developed by the Steering Committee in consultation with a group comprised of law society complaints resolution, investigation and discipline staff.

From 2012 to 2014, the standards were pilot tested with law societies to ensure that they were realistic and achievable, yet still high and aspirational in nature. A number of refinements were made to the standards based on feedback from law societies during the pilot phase.

In April 2014, the Federation Council approved the final standards, and on January 1, 2015, law societies across Canada officially implemented the standards.

6. How are the standards monitored?

A Standing Committee on National Discipline Standards ("Standing Committee") was created once the Pilot Project had concluded. The mandate of the Standing Committee is to facilitate implementation of the standards and to make recommendations to Federation Council for amendments to the National Discipline Standards from time to time as necessary.

7. How is the public's perspective taken into consideration?

The law societies and the Federation recognize the importance of being responsive to the public interest. To ensure that the public's perspective was accounted for in the development of the standards, the former Ombudsman of Saskatchewan, Kevin Fenwick, was a member of the National Discipline Standards Pilot Project Steering Committee. To ensure that the public perspective continues to be taken into consideration as we monitor implementation of the standards, former Manitoba Ombudsman, Irene Hamilton, is a member of the Standing Committee.

8. Are law societies meeting the standards?

No. Great progress is being made and law societies are meeting on average 72% of the standards. Law societies continue to show impressive results as they work towards meeting the standards. Law society progress on meeting the standards will be reviewed annually by the Standing Committee on National Discipline Standards.

9. Why are the standards aspirational?

We have described the standards as aspirational recognizing that not all law societies will be able to achieve them all. For instance, in some jurisdictions current legislation prohibits one or more standards from being met.

Law societies chose to set challenging standards with the goal that they would promote a culture of performance improvement, including recognition and adoption of best practices. The reports provided by each law society show that performance has measurably improved in every jurisdiction both during the pilot phase and continuing into the first year of implementation. Various initiatives are underway to support the effective implementation of the standards. For example, a sub-group of the Standing Committee, The Adjudicator Training Working Group, is developing a national curriculum for training law society adjudicators in conjunction with standard 20.

10. What happens if a law society fails to meet one or more standards?

The standards are not mandatory and there is no penalty if a law society fails to meet the standards.

11. Can the standards be changed?

Yes. The goal is that the standards will evolve over time based on law societies' experience with them. Law societies continue to monitor all aspects of the standards and adjustments are being made as needed. The dynamic nature of the standards allows for new standards to be created as needed and for continuous improvement in how law societies investigate complaints and administer discipline.

12. Is there a complaints process if a member of the public believes that a law society is not meeting the National Discipline Standards?

No. The national discipline standards are indicative of Canada's law societies' commitment to transparency and openness, and to working with the profession, the public and all stakeholders to improve standards and uphold key professional principles in relation to the handling of complaints and discipline processes. There is no complaints process for the public, since the standards are aspirational only and are not mandatory.