



October 13, 2021

Via email: claire.farid@justice.gc.ca

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Family and Children's Law and Policy Unit
Family, Children and Youth Section
Justice Canada
284 Wellington Street
Ottawa, ON, K1A 0H8

Dear Ms. Farid:

Re: Suggestions for Public Legal Education and Information for Income Disclosure

I write on behalf of the Canadian Bar Association Family Law Section (CBA Section) in response to your request for suggestions on how to improve public legal education and information (PLEI) relating to income disclosure in family law. We look forward to meeting with you in early December 2021, when we will have an opportunity to discuss this topic and our proposals.

The CBA is a national association representing 36,000 jurists, including lawyers, notaries, law teachers and students across Canada. The Association's primary objectives include improvement in the law and in the administration of justice. The CBA Section consists of lawyers from across Canada who specialize in family law, and act for all parties in family law disputes.

The CBA Section reviewed existing federal and provincial PLEI relating to income disclosure. We noted two PLEI resources available on Justice Canada's website: "The Federal Child Support Guidelines: Step-by-Step" and "Fact Sheet – Income Disclosure for Child Support Purposes."¹

The CBA Section recommends additional PLEI on four topics to help the Canadian public to understand income disclosure:

1. income disclosure for child support;
2. how income is calculated for child support;
3. information in income tax returns for child support; and
4. how child support is enforced.

¹ Justice Canada, [The Federal Child Support Guidelines: Step-by-Step](#).
Justice Canada, [Fact Sheet – Income Disclosure for Child Support Purposes](#).

Our proposals are limited to child support for these reasons:

- In our view, information relating to child support should be prioritized given its direct impact on children. The proper quantification of child support is a key factor in reducing the risk of child poverty.
- Income for child support and spousal support are calculated in a similar manner. Once information about income disclosure relating to child support is available, adding PLEI about spousal support is a simpler next step.

In the attached Appendix, we outline the proposed content for each topic, along with some references to existing PLEI where appropriate. The CBA Section would be pleased to provide additional information, more detailed outlines and proposed formats for each topic should that be of assistance to Justice Canada.

The child support enforcement content could also cover changes to the *Family Orders and Agreements Enforcement Assistance Act* (FOEAA). We would be happy to make more specific proposals on this subject after the regulations under FOEAA are finalized.

We are grateful for the opportunity to provide input on much-needed PLEI to help the public understand income disclosure, and we look forward to our upcoming discussions on this and other topics.

Yours truly,

(Original letter signed by Sarah Mackenzie for Erin L. Brook)

Erin L. Brook
Chair, CBA Family Law Section

APPENDIX

Suggestions for Public Legal Education and Information on Income Disclosure

TOPIC 1: UNDERSTANDING INCOME DISCLOSURE

DEFINITIONS

- Define common terms (e.g., income tax return, notice of assessment, financial statements, child support, Federal Child Support Guidelines, shared parenting) that will be used in PLEIs so that terms can be cross-referenced and linked.

STEP 1: WHY IS INCOME DISCLOSURE REQUIRED

- Explain the objectives of the Guidelines.
- Give a high-level summary of disclosure requirements in the Guidelines.
- Emphasize the consequences for failure to provide complete disclosure including sections 22 and 24 of the Guidelines.
- Consider building on the explanation of the court's powers in "Fact Sheet – Income Disclosure for Child Support Purposes".

STEP 2: WHEN IS INCOME DISCLOSURE REQUIRED

- Explain the circumstances when initial income disclosure is required in plain language (section 21(1) and 21(2)).
- Explain when ongoing income disclosure is required (section 25(1)).
- Explain a party's duty to provide complete, accurate, and up-to-date information under section 7.4 of the Divorce Act.
- Explain a party's duty to comply with an order until it is no longer in effect under section 7.5 of the Divorce Act.
- Consider building on and updating "Fact Sheet – Income Disclosure for Child Support Purposes".

STEP 3: WHAT INCOME DISCLOSURE IS REQUIRED

- Explain sections 21(1) of the Guidelines in plain language.
- Define each document referred to in section 21(1) (income tax return, financial statement, trust settlement agreement, statement of income).
- Consider building on the type of income information listed in "Fact Sheet – Income Disclosure for Child Support Purposes" and Step 5 of "The Federal Child Support Guidelines: Step-by-Step".

STEP 4: HOW TO COMPLETE INCOME DISCLOSURE

- Explain what professionals and/or institutions may have the documents referred to in section 21(1).
- Explain how to obtain income tax returns and notices of assessment from CRA (it would be helpful if this part could be done in partnership with the CRA).

TOPIC 2: UNDERSTANDING HOW INCOME IS CALCULATED FOR CHILD SUPPORT

- Explain sections 15 to 20 of the Guidelines in plain language along with examples of when each section might apply.
- Explain schedule III of the Guidelines in plain language along with examples of how it applies.
- Explain why line 15000 of income tax return may not be sufficient.
- Explain section 21(3) "undue hardship" in plain language along with common examples.
- Explain section 21(4) "income over \$150,000."
- Consider building on the explanation of how to calculate income currently in Step 5 of "The Federal Child Support Guidelines: Step-by-Step".

TOPIC 3: UNDERSTANDING THE INFORMATION IN INCOME TAX RETURNS FOR CHILD SUPPORT

- Explain sources of income contained at lines 10100 to 15000 of income tax returns by title.
- Explain “deductions” from income along with common examples of when they might apply.
- Explain “add-backs” to income along with common examples of when they might apply.

TOPIC 4: UNDERSTANDING HOW CHILD SUPPORT IS ENFORCED

- Explain the role of enforcement agencies.
- Explain consequences of enforcement.
- Include links to the enforcement agency in each province and territory, and international enforcement agencies.

In addition to the Justice Canada PLEIs referenced in our letter, the following PLEIs may offer helpful formats and ideas for some of the topics outlined in this Appendix:

- Canadian Bar Association, [Family Law Tax Toolkit](#)
- Centre for Public Legal Education Alberta, [Families and the Law: Financial Support](#)
- Legal Aid BC, [Complete a Provincial Court Financial Statement \(Form 4\)](#)
- Government of BC, [To Complete a Financial Statement](#)
- Ministry of the Attorney General, Ontario, [A Guide to Procedures in Family Court](#)