

APPLICABLE TOWARD CPD REQUIREMENT

3rd Fair Hearing

Master the fundamentals of administrative law that apply to running a fair hearing



Workshop Included:
Maintaining Control of Hearings

Participating Organizations

- Financial Services Commission of Ontario
- Global Resolutions Inc.
- Health Professions Appeal and Review Board
- Office of the Conflict of Interest Commissioner
- Office of the Information and Privacy Commissioner of Ontario
- Lerners LLP
- Ministry of Finance
- Ontario Civilian Police Commission
- Ontario Energy Board
- Ontario Review Board
- WeirFoulds LLP

Who Should Attend

Chairs, Vice-Chairs, Adjudicators, Members & Counsel of: Administrative Tribunals, Commissions, Boards & Agencies, Disciplinary Tribunals; City Councilors & Adjudicative Committee Members; Arbitrators

Course Highlights

- Hear from our roster of leading Canadian administrative law experts as they discuss:
- Ensuring adequacy of reasons in your decisions
- Procedural fairness
- Dealing with unrepresented litigants
- Impartiality and cultural sensitivity
- Conducting the hearing
- And much more . . .



Course Leader
Raj Anand
WeirFoulds LLP



Course Leader
Roy B. Conacher
Q.C., Ontario
Civilian Police
Commission

"Great! Very informative"

"Learned new techniques that will be able to be implemented immediately"



Janice Vauthier
Health
Professions
Appeal and
Review Board



Frederick H. Webber
Global
Resolutions Inc.



Patrice Band,
Ontario Review
Board



Cynthia
Chaplin
Ontario Energy
Board



Mark J.
Freiman
Lerners LLP



Diane Smith,
Office of the
Information
And Privacy
Commissioner
of Ontario



Paul B.
Sommerville
Ontario Energy
Board



Richard
Feldman
Financial
Services
Commission of
Ontario



Heather
Popliger
Office of the
Conflict of
Interest
Commissioner



Anne Sone
Ministry of
Finance

FACULTY

COURSE LEADERS

RAJ ANAND

Raj Anand is a Partner, senior civil litigation, administrative and human rights lawyer and a bencher of the Law Society of Upper Canada with **WeirFoulds LLP**.

ROY B. CONACHER

Roy B. Conacher is a Member of the **Ontario Civilian Police Commission** and former Vice-Chair of the Ontario Consent and Capacity Board.

CO-LECTURERS

PATRICE BAND

Patrice Band is an Alternate Chair of the **Ontario Review Board**. In the past, he acted as counsel to the College of Physicians and Surgeons of Ontario in the area of administrative and regulatory law, and conducted professional disciplinary proceedings.

CYNTHIA CHAPLIN

Cynthia Chaplin is Vice-Chair with the **Ontario Energy Board**. She has 25 years of experience in the natural gas and electricity sectors in Canada and the United Kingdom.

RICHARD FELDMAN

Richard Feldman, a lawyer, is an Arbitrator with the **Financial Services Commission of Ontario**.

MARK J. FREIMAN

Mark J. Freiman is a Partner with **Lerners LLP**.

HEATHER POPLIGER

Heather Popliger is a Counsel with the **Office of the Conflict of Interest Commissioner**.

DIANE SMITH

Diane Smith is an Adjudicator with the **Office of the Information and Privacy Commissioner/Ontario**. Previous to that, she was a member of the Immigration and Refugee Board.

PAUL B. SOMMERVILLE

Paul B. Sommerville, a lawyer, was appointed as a full-time Member of the **Ontario Energy Board** in 2001.

ANNE SONE

Anne Sone is an Arbitrator with the **Financial Services Commission of Ontario**.

JANICE VAUTHIER

Janice Vauthier is Vice-Chair of the **Health Professions & Health Services Appeal & Review Board**.

FREDERICK H. WEBBER

Fred Webber of **Global Resolutions Inc.**, is an Arbitrator who has practised law as in-house counsel for over 37 years.

COURSE PROGRAM

LEGAL FRAMEWORK GOVERNING ADMINISTRATIVE HEARINGS: PROCEDURAL FAIRNESS

Administrative law is growing more complex, becoming one of the most difficult areas of law to master. This introductory session will examine the legal framework that governs administrative hearings and provide an overview of some of the fundamentals of administrative law as they apply to running a fair hearing.

- The fairness doctrine and its role in the conduct of hearings
- The right to be heard and its impact in the tribunal context
- Rules of evidence
- Addressing fairness challenges

IMPARTIALITY AND CULTURAL SENSITIVITY

Those running a hearing have a responsibility to look at the way they conduct themselves, while acting independently and impartially. This requires that decision makers conduct hearings with an open mind and without being influenced by external forces. They must not only avoid bias, but also avoid creating a perception of bias. This session will examine these key concepts.

- Best practices for maintaining impartiality
- The risks of ex parte communications
- Establishing cultural sensitivity for a multicultural society
- Case law addressing impartiality: what is considered bias

SUPPLEMENTARY COURSE MATERIAL

Federated Press is now providing delegates with access to an innovative new database containing at least 25 interactive multimedia presentations by leading experts and approximately 20 hours of lectures on the topics covered by this course, including all slides and speakers' papers. See the list of presentations on page 4.

Delegates will also receive a trial subscription to the Government Channel, a much broader resource representing hundreds of hours of interactive multimedia lectures on leading edge Government topics as delivered at our many recent Government conferences and courses.

- *This program can be applied towards 9 of the 12 hours of annual Continuing Professional Development (CPD) required by the Law Society of Upper Canada. Please note that these CPD hours are not accredited for the New Member Requirement.*
- *For Alberta lawyers, consider including this course as a CPD learning activity in your mandatory annual Continuing Professional Development Plan as required by the Law Society of Alberta.*
- *Attendance at this course can be reported as 10 hours of Continuing Professional Development (CPD) to the Law Society of B.C.*
- *The Barreau du Québec automatically accredits training activities held outside the Province of Quebec and accredited by another Law Society which has adopted MCLE for its members*

PRE-HEARING CONFERENCES

The purpose of a pre-hearing conference is to provide the parties with an opportunity, prior to the hearing, to discuss the preparations for, and the conduct of, the upcoming hearing. This session examines the procedures to be followed for scheduling and conducting pre-hearing conferences.

- Types of conferences: issues, technical, settlement, expert
- Purpose and objective of each
- Timing
- Content
- Participants
- Outcomes
- OEB Experience
- Analysis: how effective are pre-hearing conferences?

ENSURING ADEQUACY OF REASONS IN YOUR DECISIONS

Reasons should contain detailed factual and legal grounds, and they should be sufficiently complete and clear. The required degree of detail will depend on a number of factors, such as the complexity of the issues. This session will examine best practices for ensuring the adequacy of reasons in your decisions.

- Elements and structure of a good decision
- Speaking to issues of credibility
- Setting out sufficient legal grounds
- Providing reasons that are clear

BALANCING TRIBUNAL TRANSPARENCY & INDIVIDUAL PRIVACY

Tribunals have to balance the competing demands of openness - serving the public interest by disclosing their decisions and their reasons for making them - against the need to protect privacy. The public mandate of tribunals requires them to satisfy both of these demands. This session will examine how to strike that balance.

- Striking a balance: open justice and privacy
- Legislation and statutory powers that impact hearings
- Understanding freedom of information and privacy legislation
- Handling access requests and privacy complaints

CONDUCTING THE HEARING

With the twists and turns of witnesses, evidence and procedural motions, conducting a hearing can turn out to be a complex, and sometimes even daunting, task. This session will examine the key issues to keep in mind when preparing for, and then while conducting, a hearing.

- Setting the stage with your introductory remarks
- Ensuring fairness in the presentation of evidence
- Safeguarding privacy rights in the conduct of a hearing
- Dealing with tough questions: privilege and conflicts of interest

DEALING WITH UNREPRESENTED LITIGANTS

Increasingly, adjudicators are having to deal with unrepresented parties, resulting in special challenges and ethical issues in conducting a fair hearing absent the appearance of bias. This session will provide best practices in dealing with unrepresented litigants.

- Legal and ethical obligations an adjudicator has to an unrepresented litigant
- Ethical issues in the conduct of a hearing
- Level of assistance that can be given to unrepresented parties
- Respecting experienced counsel without appearing biased

RULES OF EVIDENCE FOR ADMINISTRATIVE HEARINGS

The rules of evidence for administrative tribunals are based on the principles of natural justice but are not as homogeneous as those applying to courts of law. This session will provide an overview of the rules of evidence for administrative hearings.

- Managing documents and other objects in evidence
- Admissibility issues and the competency of witnesses
- Use of expert witnesses
- Dealing with opinion and hearsay evidence

HANDLING PRELIMINARY MOTIONS

At the commencement of a hearing, any party before a tribunal may raise preliminary objections or make requests of the adjudicator. These requests and/or objections can vary from matters involving evidence or procedure to substantive issues of jurisdiction. This session will examine the proper process for handling various types of motions.

- Submission requirements for preliminary motions
- Addressing constitutional questions
- Procedural motions
- Issues relating to bias or requests to recuse or disqualify

RULING ON OBJECTIONS

One of the big criticisms of administrative hearings is that they take too long, thus adding to the expense and anxiety of the parties. Carefully ruling on relevance objections is the best tool for keeping the hearing on track. This session will examine techniques and suggestions for dealing with objections during the hearing.

- Common forms of objections in administrative hearings
- Best practices and processes for ruling on objections
- Key factors to take into account when making rulings
- What to do when counsel fails to object when warranted

LATEST DEVELOPMENTS IN JUDICIAL REVIEW OF TRIBUNAL DECISIONS

A judicial review is a complex legal process. The courts recognize that tribunals have specialized knowledge and experience in their particular subject areas and, because of that, will not easily interfere with a tribunal's decision. This session will examine the process by which the Divisional Court of the Superior Court reviews decisions of administrative decision makers.

- The Judicial Review Procedure Act
- Time limits for applying for a judicial review
- Who can apply for judicial review
- How judicial reviews differ from retrials or rehearings

WORKSHOP

MAINTAINING CONTROL OF HEARINGS

One of the most difficult jobs of the adjudicator is to maintain control of complex and at times unwieldy hearings, while ensuring the doctrine of fairness is upheld throughout. This session will explore strategies for dealing with unexpected challenges during hearings, and review the tools available to the arbitrator to start a hearing on the right note and keep it under control.

- Effectively setting the ground rules early on in the process
- Completing the hearing fairly and within the allotted time
- Maintaining control of counsel, witnesses, and observers
- Arbitrator's options when faced with a motion to recuse
- What to do if you have concerns about your own bias

Your registration includes an interactive multimedia database comprising the following presentations from recent Federated Press courses and conferences. They are presented in their entirety with complete audio or video and accompanying slides. You may also purchase the multimedia proceedings of the course which will be available on CD-ROM 60 days after the course.

Impact of Policy and Precedent in Decision Writing

John Higgins
Office of the Information and Privacy Commissioner of Ontario

Writing Effective Introductory Statements: Setting the Tone for the Decision

Paul B. Sommerville
Ontario Energy Board

Writing Effective Issue Statements

John Higgins
Office of the Information and Privacy Commissioner of Ontario

Organizing the Discussion of the Evidence: Analyzing and Weighing the Evidence

Steven Faughnan
Office of the Information and Privacy Commissioner of Ontario

The Decision Writing Process: Practical Tips for Writing documents

James A. Ogilvy
Canadian International Trade Tribunal

Writing Effective Closing Statements

John Higgins
Office of the Information and Privacy Commissioner of Ontario

Formulating Reasons for Decisions

Philippe Rabot
CPP/OAS Review Tribunals

Decision Writing Exercise

Donald Buckingham (L.L.D., Dip. Int. Law (Cantab.), LL.B.)
Canada Agricultural Review Tribunal

Pre-hearing Conferences

Lynda Tanaka
Ministry of Government Services

Ensuring Adequacy of Reasons in Your Decisions

Philippe Rabot
Canada Pension Plan/Old Age Security Review Tribunals

Introduction to the Decision Writing Process

Irwin Fefergrad
Royal College of Dental Surgeons of Ontario

Judicial Review and Reasons

Brian A. Crane Q.C.
Gowling Lafleur Henderson LLP

Panel Discussion: Formulating Reasons for Decisions + Questions & Group Discussion

Robert Butterworth, Q.C.
Environment and Land Tribunals Ontario - Assessment Review Board

Writing Style

Athanasios D. Hadjis
Public Service Staffing Tribunal

Fact-Finding Best Practices

Irwin Fefergrad
Royal College of Dental Surgeons of Ontario

Applying Law to Factual Findings

Ian R. Mackenzie
Public Service Labour Relations Board

Writing Effective Conclusions

Robert Butterworth, Q.C.
Environment and Land Tribunals Ontario - Assessment Review Board

Panel Discussion -Decision Writing Tips and Best Practices

Ian R. Mackenzie
Public Service Labour Relations Board

Legal Framework Governing Administrative Hearings: Procedural Fairness

Jeff Cowan
Weirfoulds LLP

Panel Discussion: Impartiality and Cultural Sensitivity

Harold J. Arkin
Financial Services Commission of Ontario

Balancing Tribunal Transparency & Individual Privacy

John Higgins
Office of the Information and Privacy Commissioner of Ontario

Ruling on Objections

The Hon Douglas H. Carruthers, Q.C.
Ontario Review Board

Dealing with Unrepresented Litigants

Alison E. Renton
Human Rights Tribunal of Ontario

Latest Developments in Judicial Review of Tribunal Decisions

The Honourable Mr. Justice J. Douglas Cunningham
Ministry of the Attorney General (Ontario)

Conducting the Hearing

Dr. Don Buckingham
Canada Agricultural Review Tribunal

Registration: To reserve your place, call Federated Press toll-free at 1-800-363-0722. In Toronto, call (416) 665-6868 or fax to (416) 665-7733. Then mail your payment along with the registration form. Places are limited. Your reservation will be confirmed before the course.

Location: Novotel Toronto Centre Hotel, 45 The Esplanade, Toronto, ON, M5E 1W2

Conditions: Registration covers attendance for one person, the supplementary course material as described in this document, lunch on both days, morning coffee on both days and refreshments during all breaks. The proceedings of the course will be captured on audio or video. Multimedia proceedings with all slides and handouts can be purchased separately on a CD-ROM which will also include the course material.

Time: This course is a two-day event. Registration begins at 8:00 a.m. The morning sessions start promptly at 9:00. The second day ends at 4:00 p.m.

Cancellation: Please note that non-attendance at the course does not entitle the registrant to a refund. In the event that a registrant becomes unable to attend following the deadline for cancellation, a substitute attendee may be delegated. Please notify Federated Press of any changes as soon as possible. Federated Press assumes no liability for changes in program content or speakers. A full refund of the attendance fee will be provided upon cancellation in writing received prior to August 30, 2012. No refunds will be issued after this date.

Discounts: Federated Press has special team discounts. Groups of 3 or more from the same organization receive 15%. For larger groups please call.

Payment must be received prior to September 5, 2012

Phone: 1-800-363-0722 Toronto: (416) 665-6868 Fax: (416) 665-7733

TO REGISTER FOR FAIR HEARING

Name _____
 Title _____ Department _____
 Approving Manager Name _____
 Approving Manager Title _____
 Organization _____
 Address _____
 City _____ Province _____ Postal Code _____
 Telephone _____ Fax _____ e-mail _____
 Please bill my credit card: AMEX VISA Mastercard
 # _____ Expiration date: ____ / ____
 Signature : _____
 Payment enclosed: Please invoice. PO Number: _____

REGISTRATION COSTS

NUMBER OF PARTICIPANTS:
 COURSE: \$1975
 COURSE + PROCEEDINGS CD-ROM:
 \$1975 + \$175 = \$2150
 PROCEEDINGS CD-ROM: \$599
 NOTE: Please add 13% HST to all prices.
 Proceedings CD-ROM will be available 60 days
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