



April 20, 2023

**NAHO 2023 SPRING
PROFESSIONAL DEVELOPMENT
VIRTUAL MINI-CONFERENCE**

**National Association
of Hearing Officials**

*...benefiting hearing officials and the
individuals they serve...*

NAHO 2023 Spring Professional Development Virtual Mini-Conference

Who Should Participate?

- Administrative Adjudicators: ALJs, Hearing Examiners, AJs, Hearing Officers, Commissioners
- Managers of Adjudicators
- Counsel/Advocates for Agencies and Petitioners

Conference Registration Fees

NAHO Members \$ 35.00

Non-Members \$ 70.00

Registration + Membership \$ 85.00

Registration + Membership covers the cost of this seminar and confers NAHO membership through 2023 at a reduced rate, providing these member benefits:

- Two free one-hour webinars (May and November)
- Access to regional or section virtual “socials” in July
- Reduced rate for 2023 Annual Conference at NJC Reno

For MCLE Credits and/or NAHO Certification

For MCLE credits, provide your state bar or CLE commission with: (1) this brochure containing class descriptions and instructor biographies; (2) the instructional materials for these professional development classes (available from the NAHO website); (3) the certificate of completion you will receive via email within 30 days of completion of the mini-conference.

Members pursuing NAHO certification must retain completion certificates for all NAHO classes. Certificates must accompany the NAHO certification application to verify class attendance.

How To Register

To register for the conference, visit the NAHO website at www.naho.org and click on the **REGISTER HERE** link in the lower right column of NAHO’s homepage.

Conference Presenters

Gregory L. Ogden, Professor (CA) Pepperdine Caruso School of Law

Prof. Ogden has a BA, *cum laude*, from UCLA, a JD from UC Davis School of Law, an LLM from Temple University in legal education, and an LLM from Columbia University in administrative law. Since 1978, he has taught administrative law, civil procedure, professional responsibility, and remedies and is principal author of California Public Administrative Law. He's been faculty editor of the National Association of Administrative Law Judiciary (NAALJ) Journal since 2000 and has taught at numerous continuing legal and judicial education conferences on administrative law, judicial ethics and related topics.

W. Michael Gillette, Associate Justice (OR) Oregon Supreme Court (retired)

Mick Gillette holds a JD from Harvard Law School and a BA, *cum laude*, from Whitman College. He served as Deputy D.A. in Portland, Oregon, Assistant Attorney General for American Samoa, Deputy Attorney General and founding head of the Consumer Protection Division in Oregon, as well as Chief Trial Counsel and Solicitor General. He served on the Oregon Court of Appeals for 8 years, on the Oregon Supreme Court for 25 years, and has taught at the National Judicial College for 43 years. He is the recipient of NJC's Award for Excellence in Teaching and has also served as adjunct professor at Portland State University and at both Lewis and Clark and Willamette University Schools of Law.

Toni Boone, Administrative Law Judge (OR) Nevada Department of Motor Vehicles (retired)

In 31 years of presiding over administrative hearings, Toni Boone was final authority on thousands of high-volume cases and hundreds of complex cases and conducted review of initial proceedings. She's an alumna of the University of Arkansas and of The National Judicial College (NJC), having attained Certificates of Judicial Development in Administrative Law Adjudication Skills and Dispute Resolution Skills. In 2000, she joined the NJC faculty and was awarded NJC's Award for Excellence in Teaching in 2019. She achieved NAHO certification in 2008. She currently serves as NAHO's President.

Conference Session Descriptions

Using Demeanor Evidence to Determine Facts (M)

This session discusses the nature, history, and use of demeanor evidence to determine witness credibility in fact-finding by administrative adjudicators, analyzes credibility determinations involving demeanor evidence in the written decisions of adjudicators, and examines the use of demeanor evidence using hypotheticals drawn from administrative hearings.

Recent Developments in Administrative Law (M)

On March 21, in *Perez v. Sturgis Public Schools*, the U.S. Supreme Court decided, in a unanimous decision, that nothing in Section 1415(l) of the Individuals With Disabilities Education Act, would preclude a disabled student from suing his school for damages over profound lapses in his education. In *West Virginia v. EPA*, the U.S. Supreme Court mandated that administrative agencies must point to clear legislative endorsement for the authority they claim when deciding “major questions”. Do you know when and whether the issues before you are “major questions”? Agencies have long relied on the deference afforded by *Chevron USA Inc. v. Natural Resources Defense Council*, but appellate courts are lately saying that the *Chevron* doctrine applies rarely and narrowly. Do you know under what circumstances it may or may not in your hearings? In *Lucia v. SEC*, the U.S. Supreme Court held that some ALJs lacked the proper authority to decide certain cases. Might the same logic be applied to state or local administrative adjudicators or to adjudicators hired on a case-by-case/hourly basis? U.S. Supreme Court decisions *can* impact how we do what we do. Do you know when and how? This thought-provoking class will provide context and understanding to help you grasp these important concepts and how they may apply

Creating & Preserving the Record for Review (M)

A dispute was settled by hearing, but the petitioning party didn't like the outcome. Due process demands there be a means of review for the dissatisfied party. The reviewing entity cannot speculate regarding whether the adjudicator determined the case correctly. They must rely upon the record to determine whether the adjudicator made any legal errors and whether the facts found were supported by the evidence. This class addresses best practices and pitfalls on creating and preserving hearing records.

Written materials for all virtual sessions will be available to registrants from April 17 to May 31 on the NAHO website

Mini-Conference Schedule (All times are Eastern Time)

THURSDAY, APRIL 20

11:00 a.m. – 11:15 a.m.

**Welcome, Introductions,
and Conference Information**

Toni Boone

NAHO President

SESSION 1

11:15 a.m. – 12:15 p.m.

**Using Demeanor Evidence
to Determine Facts**

Professor Gregory Ogden

BREAK 12:15 – 12:30 P.M.

SESSION 2

12:30 P.M. – 1:30 P.M.

**Recent Developments in
Administrative Law**

Honorable W. Michael Gillette

BREAK 1:30 – 1:45 P.M.

SESSION 3

1:45 – 2:45 P.M.

**Creating & Preserving the
Record for Review**

ALJ Toni Boone (retired)

Honorable W. Michael Gillette

2:45 P.M. Closing:

**Completion Certificates
and MCLE Credits**



National Association of Hearing Officials

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