

NATIONAL ASSOCIATION OF HEARING OFFICIALS

8 ANNUAL
2018 PROFESSIONAL
DEVELOPMENT
CONFERENCE



SAN DIEGO

SEPTEMBER 9-12
MARRIOTT MARQUIS
SAN DIEGO MARINA

2018 ANNUAL PROFESSIONAL DEVELOPMENT CONFERENCE

MARRIOTT MARQUIS SAN DIEGO MARINA
SAN DIEGO, CALIFORNIA
SEPTEMBER 9-12, 2018

FEATURING:

- Over 40 hours of MCLE-qualified instruction from which to choose to interest and educate administrative hearing officials, practitioners, and others involved in the administrative hearing process;
- Course offerings covering general areas of administrative hearings practice such as due process, ethics, bias elimination, hearing conduct and control, decision writing, evidence (basic and advanced), alternative dispute resolution (basic and advanced) and dealing with “high-conflict” personalities taught by law professors, appellate judges or knowledgeable, experienced administrative adjudicators who are also skilled presenters;
- Keynote address by the Honorable John B. Owens, United States Court of Appeals for the 9th Circuit;
- Facilitated discussions on emerging administrative law concerns; and
- Opportunities for the exchange of ideas and experiences, in both formal and informal settings, with administrative adjudicators, faculty and others from across the nation.

WHO SHOULD ATTEND?

- Administrative Adjudicators:
 - ALJs
 - Hearings Examiners
 - AJs
 - Hearing Officers
 - Board and Commission Members
- Attorneys
- Managers of Agency Adjudicators
- Agency Hearings Representatives/Advocates

Message FROM THE PRESIDENT

PLEASE JOIN US!

Dear Colleagues:

It is my pleasure to invite you to the NAHO 2018 Professional Development Conference to be held in San Diego, California, from Sunday, September 9 to Wednesday, September 12. This annual gathering of hearing officials and others from the world of administrative adjudications is not only a great opportunity to receive excellent professional development training on a variety of subjects concerning administrative hearings practice, but it is also a chance to meet others who “do what you do” to share ideas and experiences.



The Conference will be held at the Marriott Marquis and Marina in San Diego. For those of you planning to do a little sightseeing, the Marina Walk connects the bay area with the downtown locale. A stroll along this waterfront walkway will take you through a number of parks and the marina. Both bicycle and boat rentals are available. If you'd like to visit Balboa Park, Old Town, Coronado, or San Diego's world-renowned zoo, there is a hop-on, hop-off trolley bus which stops directly outside the hotel and will take you to these locations. The Gaslamp Quarter, a short, flat, easy walk from the hotel, is on the National Registry of Historic Places, and dates back to 1850. This 16-block district, despite its quaint Victorian architecture and history, is a lively area where you can enjoy guided tours, either on foot or via trolley, and hear the dramatic and colorful history of the neighborhood. There are over 80 stores in the Quarter—national retailers and fascinating boutiques selling art, books, crafts, and gifts. Also available are a number of galleries, dining choices ranging from casual to upscale and live music venues.

The Conference Planning Committee, led by Vice President Toni Boone (OR), has prepared an impressive curriculum. As you read through the program outlined in the next few pages, you will see that the Conference is structured to deliver an array of educational courses on general administrative law topics, elimination of bias, hearings practice, and specialized subjects such as writing, evidence (basic and advanced), hearing management, ethical issues, alternative dispute resolution (basic and advanced) and many more timely subjects.

NAHO prides itself on the quality of its faculty. Conference instructors include professors who are recognized experts in administrative law, appellate judges, knowledgeable attorneys, and experienced administrative adjudicators. Be sure to watch for the faculty bios on our website soon!

In addition to the great educational programs, there will be many opportunities to get to know your colleagues from across the country. In addition to all training classes, the registration fee includes the Sunday evening welcome reception, the Monday guest-speaker luncheon, and the Tuesday awards luncheon.

Please look at this extraordinary program and make your plans to join us in September for the 2018 Conference.

See you in San Diego!

Janice B. Deshais

**Janice B. Deshais (CT), CHO
President**

EXPLORE SAN DIEGO

There is a hop-on, hop-off trolley bus which stops directly outside the hotel which will take you to Balboa Park, Old Town, Coronado or San Diego's world-renowned zoo.



DINING, ENTERTAINMENT & ATTRACTIONS

The Gaslamp Quarter, a short, flat, easy walk from the hotel, is a 16-block district where you can enjoy national retailers, fascinating boutiques, galleries, live music venues and dining choices ranging from casual to upscale.



HOTEL & SPECIAL EVENTS



THE MARRIOTT MARQUIS SAN DIEGO MARINA

333 West Harbor Drive
San Diego, CA 92101
Telephone: (619) 234-1500
Toll free: 1-877-622-3056
<https://book.passkey.com/e/49671312>



WELCOME RECEPTION

Sunday, September 9
5:00 pm – 7:00 pm
Poolside at the Marriott Marquis



KEYNOTE LUNCHEON

Monday, September 10 at 12:15 p.m.
Keynote address begins at 12:45 p.m.
San Diego Ballroom B



AWARDS LUNCHEON

Tuesday, September 11
at 12:15 p.m.
San Diego Ballroom B

MAKING YOUR HOTEL RESERVATIONS

The Marriott Marquis San Diego Marina is offering NAHO conference attendees the 2018 federal per diem rate for San Diego, which is \$153.00 per night. This rate is subject to applicable taxes and fees totaling 13.27%. The Marriott Marquis is located in the heart of Downtown San Diego and overlooking a private marina on San Diego Bay.

The deadline to receive this conference rate for your hotel room is Friday August 17, 2018. After August 17, guestrooms may or may not be available. Also, after this date rooms, if available, will be at the hotel's usual prevailing rate.

Marriott Marquis' Passkey Reservation System has been programmed so that NAHO conference attendees can easily make room reservations at NAHO's special rate. The website address is: <https://book.passkey.com/e/49671312>.

Reservations may also be made by calling:

Reservations Toll Free: 1-877-622-3056

Reservations Local Phone: 619-234-1500

Please refer to the National Association of Hearing Officials Conference, September 8th through 12th. Reservations can be made up to three days pre and post based on availability. There is a 72 hour cancellation policy. To confirm a sleeping room within the NAHO Room Block, the sleeping room must be secured with a valid credit card provided by the guest attending the event, along with a first night's deposit refundable up to 72 hours in advance of the scheduled arrival date. Cancellations made less than 72 hours before arrival will forfeit the cost of one night's lodging plus tax.

NAHO's guaranteed room block for the conference is limited, so please make your reservations early!

GETTING TO AND FROM THE HOTEL

The Marriott Marquis is located at 333 West Harbor Drive. The San Diego International Airport (SAN) is located only 3.3 miles from the hotel. Although the hotel does not provide airport transportation, there are a number of public transportation services available at any given time.

For Californians, Amtrak is a good transportation alternative to travel to San Diego. The Pacific Surfliner route provides beautiful ocean views as you ride along the coast to San Diego. <https://www.amtrak.com/routes.html> The hotel is just a short Uber ride, or two stops away using the trolley, from the Santa Fe Depot in Downtown San Diego.

Metropolitan Transit System bus 992 is only about \$2.25 to travel from the San Diego Airport to downtown San Diego where you can de-board at Broadway and Front Street to take a short Uber ride to the hotel. <http://www.san.org/>

Parking-Transportation/Public-Transportation

There are a number of different shuttle services available as listed on the airport's website. <http://www.san.org/parking-transportation/Shuttles> Shuttle service is available at the Transportation Plazas across from Terminals 1 and 2. From Terminal 1, cross the sky bridge and take the escalators or the elevators to street level. From Terminal 2, use the pedestrian crosswalk conveniently located outside the Terminal 2 Baggage Claim Area to access the Transportation Plaza. A Customer Service Representative will place you with the first available shuttle, unless you specify a particular shuttle company. Check the airport website for more information.

To catch a taxi, from the airport, simply follow the signs leading to the Transportation Plazas. A Customer Service Representative will place you with the first available taxi, unless you specify a particular taxicab company. The estimated taxi fare from the airport to the hotel is \$18 one way.

Uber or Lyft is another option found in the Transportation Plazas.

NAHO MEMBERSHIP

If you are interested in joining NAHO for the first time or have been away for a while, now is the time to join! Go to www.naho.org to submit a membership application and pay your membership dues!

NAHO membership is open to all current and former administrative hearing officials. Associate membership is available for those who are not hearing officials, but who provide support for hearing officials or make a contribution to the administrative hearing process through their work, their scholarship, or their efforts on behalf of NAHO. The Membership Committee considers all applications for individual and associate membership. Please allow time for processing and consideration in order to qualify for a particular NAHO member or associate member registration rate.

NAHO membership runs from January to December. Annual dues are as follows.

Individual Hearing Official Membership

New or lapsed membership: \$60 for one year or \$135 for three years

Membership Renewal: \$50 for one year or \$115 for three years

Group Hearing Official Membership

Groups of 5 or more (from same agency, paying at same time)

New or lapsed membership: \$50 per person

Membership Renewal: \$40 per person

Associate Membership

New or lapsed membership: \$45 for one year or \$120 for three years

Membership Renewal: \$35 for one year or \$100 for three years

Questions regarding membership may be directed to Kayla Adams, Membership Committee Chair, at kayla.adams@naho.org

NAHO CERTIFICATION

The National Association of Hearing Officials is a professional nonprofit organization formed in 1986 and is the only national professional organization for administrative hearing officials that offers a certification program. NAHO certification, like NAHO membership, is open to any full or part-time administrative adjudicator, regardless of job title, working at any level of government—federal, state, county or municipal—and for any type of administrative governmental agency. NAHO membership is required for certification.

The NAHO certification program is dedicated to developing uniform standards of excellence and professionalism for hearing officers and administrative law judges across the country. Course requirements for certification ensure that individuals have a sound background in administrative law and hearing procedures. Certification stands as tangible evidence of your personal commitment to your own professional development and to a fair hearing process. NAHO membership is required for certification. Courses attended at this year's conference may be considered towards meeting certification requirements for 2018. Core requirements can be met by attending annual NAHO conferences or classes arranged through the NAHO Speakers' Bureau, viewing instructional DVDs from the NAHO Library, through courses completed at the National Judicial College, and by participating in other recognized programs addressing the administrative hearing process.

For complete information on certification, see www.naho.org under the heading for Professional Development. Individuals seeking to receive certification or recertification at the 2018 conference should submit complete applications postmarked by August 1, 2018 to:

NAHO Certification Committee

C/O Jimmy C. Stokes

328 E. Washington Street

Madison, GA 30650.

MCLE ACCREDITATION

The 2018 NAHO Professional Development Conference will provide 40.5 hours of instruction which includes four hours of Ethics and three hours on Elimination of Bias. The format of the conference is such that three classes are scheduled simultaneously. As conference attendees may only take one of the three offered simultaneous sessions, attendees completing the entire conference can expect to accrue 14.5 total MCLE hours. In order to ensure that you are properly credited for the sessions you complete, furnish your state bar office with: (1) a copy of your conference registration providing the sessions for which you were registered; (2) a copy of the conference brochure which provides descriptions of each session; and (3) your certificate of completion for the conference.

FEATURED SPEAKER

**The Honorable John B. Owens,
U.S. Court of Appeals for the Ninth Circuit**

Keynote Address, Monday, September 10, 12:45 p.m.

The Clerk, The Thief and The Baker:

The Supreme Court Scandal Of 1919



The Honorable John B. Owens serves on the Court of Appeals for the Ninth Circuit.

Prior to becoming a federal judge in 2014, he was a partner at Munger, Tolles & Olson LLP (where he focused on white collar investigations and appellate matters), and a federal prosecutor for more than 11 years in Washington D.C., Los Angeles, and San Diego. He served as the Chief of the Criminal Division in the U.S. Attorney's Office for the

Southern District of California, and received two Director's Awards for his work there. The television show American Greed featured two of his prosecutions, and he obtained the longest sentence for a white collar defendant in the history of the Southern District of California in *United States v. Cao*.

Judge Owens graduated first in his class from Stanford Law School in 1996, where he was an Executive Editor on the Stanford Law Review. After graduation, he served as a law clerk for the Honorable J. Clifford Wallace of the Ninth Circuit Court of Appeals and for the Honorable Ruth Bader Ginsburg of the Supreme Court of the United States. His written work has appeared in the California Law Review, the UCLA Law Review, the Northwestern Law Review, and other law reviews. Judge Owens and his family live in San Diego.



Scholarships Available for 2018 Professional Development Conference

The NAHO Board of Directors has authorized a limited number of partial and full scholarships to NAHO members to attend the 2018 Professional Development Conference. Full NAHO scholarships cover the total cost of registration to attend the entire conference and all group meals that are a part of the conference. Partial NAHO scholarships cover a portion of the registration fee to attend the entire conference and all group meals that are a part of the conference. NAHO scholarships do not cover travel/transportation expenses, lodging expenses or meals that are not provided as a part of the conference. All scholarship applicants must be members in good standing of NAHO or must have applied to be members of NAHO at the time the scholarship application is submitted.

Each year, NAHO offers one or more additional scholarships to alumni of The National Judicial College in appreciation of NJC's enduring commitment to the education of administrative adjudicators and in acknowledgment of their longstanding partnership with NAHO (NAHO was official formed in 1987 at a conference that was co-sponsored by the National Judicial College). Full conference scholarship(s) for NJC alumni cover the total cost of registration to attend the entire conference and all group meals that are a part of the conference. Partial conference scholarships for NJC alumni cover a portion of the registration fee to attend the entire conference and all group meals that are a part of the conference. Scholarships for NJC alumni do not cover travel/transportation expenses, lodging expenses or meals that are not provided as a part of the conference. All applicants for NJC alumni scholarships to attend this year's NAHO conference must be an alumnus of the National Judicial College in addition to being a member in good standing of NAHO or an applicant for membership in NAHO.

Those interested in applying for either or both scholarships must submit a letter to the NAHO Scholarship Committee with the following information:

- You must verify that you are a member in good standing of NAHO or have applied to become a NAHO member. Your status may be verified by providing the date you became a member or the date of your membership application.
- Employment information (employer, job title, length of time you have been a hearing official).
- Indicate whether you will be receiving any financial assistance from your agency or employer to attend the conference. If you will not be receiving any financial aid, please include a letter from your supervisor/employer (stating you will not be receiving any funding) with your application.
- Indicate whether you are working on obtaining NAHO certification or recertification.
- Indicate whether you have previously received a scholarship to attend a NAHO professional development conference and the year you received the scholarship.
- If you are applying for an NJC Alumni scholarship, please indicate the title of the last NJC course you completed, the location of the course and the year of completion.

Scholarship application letters must be received by July 15, 2018 to be considered. Only application letters providing all the required information will be considered. Send letters of application and supporting information by email to kelly.vargo@state.mn.us.

Kelly Vargo,
Scholarship Committee Chair

SCHEDULE & CLASS DESCRIPTIONS

Following each class title are one of the following designations: (M), (E) or (S). For those applying to NAHO to become a Certified Administrative Law Judge or Certified Hearing Officer, this indicates whether the class satisfies a Mandatory requirement for certification, counts toward Elective certification hours, or is a Specialized class offering instruction unique to one type of administrative hearing.

All class segments are one-hour in length; however, there are several classes that include two hours of instruction in consecutive class segments divided by a 15-minute break. These two-hour classes are clearly indicated. Conference attendees are not required to register for both hours of a two-hour course but in most cases it is recommended. Separate attendance sheets will be circulated for each half of all two-hour sessions.

SATURDAY, SEPTEMBER 8, 2018

9:00 a.m. – National Association of Hearing Officials Annual Board of Directors Meeting

In addition to monthly Board meetings, which are telephonic, the NAHO Board has a day-long meeting on the day before the Professional Development Conference begins. **Only NAHO Board members are required to attend this meeting.** However, any *current NAHO member* who is interested in observing the meeting is welcome to attend.

SUNDAY, SEPTEMBER 9, 2018

Registration – 8:00 a.m. to 12:00 noon –

9:00 a.m. – CONFERENCE OPENING –

Janice Deshais, NAHO President
Toni Boone, NAHO Vice-President

9:30 a.m. to 11:00 a.m. – SESSION 1

FORUM: PROS AND CONS OF CENTRAL PANEL AND AGENCY ADJUDICATION From the early 1980s to 2000, there was much discussion of the need for disputes to be settled by Central Panels rather than by hearing officials employed by the agency involved in the dispute. Since 2000, however, the outcry for Central Panels has diminished and there has been no substantial increase in their number. Of the 50 states and the District of Columbia, only 22 have opted for Central Panels. Alaska and Michigan were the most recent, implementing Central Panel adjudication in 2000.

Central Panels are considered superior to agency adjudication because: (1) Adjudicators within a Central Panel are insulated from the influence of administrative agencies thus guaranteeing decision-making independence; (2) Public confidence in the fairness of administrative adjudication is greater when adjudicators are neither paid by nor have an office in the agency for which they adjudicate; (3) Central Panels are more cost-effective as adjudicators are cross-trained to hold a variety of different hearings, requiring fewer total hearing officials; and (4) Combining adjudicators from several agencies at a central location requires less support staff, resulting in additional cost savings.

If the above statements were universally true, all states would now have Central Panels. Does the failure to shift to Central Panels suggest they're not the improvement over agency adjudication that was first publicized? Do decision-makers employed directly by the agency receive implicit or explicit pressure? Has the Central Panel system resulted in the advertised cost savings? Are there advantages to having adjudicators that are "specialists" in conducting certain types of hearings?

Join members of your Section (peers who conduct the same or similar types of hearings) for facilitated discussion of these issues and others. Discussion leaders will include:

Kayla Adams, Hearings Manager, Texas Health & Human Services Commission
Toni Boone, Administrative Law Judge (retired), Nevada Department of Motor Vehicles
Janice B. Deshais, Director/Hearing Officer, CT Dept. of Energy & Environmental Protection
Karen Gorman, Inspector Gen'l & Chief Hearing Officer, Los Angeles Co. Metro Transp. Authority
W. Michael (Mick) Gillette, Associate Justice (retired), Oregon Supreme Court
Richard M. Murrell, Administrative Judge, Tennessee Administrative Procedures Division
Norman Patenaude, Chair, Workers' Compensation Appeals Board, NH Department of Labor
Jimmy C. Stokes, Hearing Officer & Executive Director, GA Association of Educational Leaders
Kelly Vargo, Senior Human Services Judge, Minnesota Department of Human Services

SCHEDULE & CLASS DESCRIPTIONS

AFTERNOON

Free Time - The hotel is situated within easy walking distance of the Gaslamp Quarter and the Embarcadero, so there are a variety of things to see and do in the area adjacent to the hotel. The Gaslamp Quarter, which dates back to 1850, is a 16-block district of quaint Victorian architecture on the National Registry of Historic Places. It's fun to explore, either by foot or by hop-on, hop-off trolley, and has dozens of restaurants and boutiques. The Embarcadero has long been a famous port at which you can enjoy harbor tours by boat or see historic vessels, giant cruise ships and the U.S.S. Midway Museum. For the energetically inclined, there's also the hotel's pools and Fitness Room. For those looking for relaxation, try the hotel's full-service spa. If you can't find *something* enjoyable to do, you're not trying.

WELCOME RECEPTION - 5:00 p.m. to 7:00 p.m., outdoors at the pool, Marriott Marquis

Come to the lush tropical setting that is the Marriott's pool area to network with colleagues, conference faculty, and friends. Heavy hors d'oeuvres will be served and a cash bar will be available.

MONDAY, SEPTEMBER 10, 2018

8:00 a.m. to 4:00 p.m. – REGISTRATION -

8:15 a.m. – OPENING WELCOME REMARKS – *Janice Deshais, NAHO President*
Toni Boone, NAHO Vice-President

8:30 a.m. to 9:30 a.m. – SESSION 2

2A Demeanor Evidence and Credibility, Part 1 (M)

Gregory Ogden, Professor, Pepperdine University School of Law

This class involves the nature, history and use of demeanor evidence to determine credibility of witnesses in fact-finding. Credibility factors recognized in evidence law, including consistency or inconsistency of statements, and psychological research related to truth-telling and deception and how that research may apply to credibility determinations will be discussed. Use of demeanor evidence in fact-finding provides hypothetical examples for discussion. Also included are analyses of written credibility determinations.

2B Examining and Eliminating Our Implicit Biases, Part 1 (M)

Peter Hemenway, Administrative Law Judge, CA Department of Social Services (retired)

Many hearing officials believe they have few biases and, if they do, they're aware of them. As we believe we're either unbiased or aware of all our biases, we're under the impression our biases can be set aside and will not affect us as impartial fact-finders. This class will explore whether these beliefs are true and, if untrue, how biases affect us when we conduct our hearings, when we make findings of fact, and when we write our decisions. Results of bias studies will be examined, but the primary focus of the class will be to examine ourselves and how we can minimize any biases we have and their impact on our hearings. This first hour of the session will be devoted to a discussion of categories protected from bias by State or Federal law (*e.g.*, race, sex, age, etc.).

2C Yoga at Your Desk, Part 1 (E)

Bonny Fetch, ALJ (retired), ND Office of Administrative Hearings; Registered Yoga Instructor

The purpose of yoga is to create strength, awareness and harmony in both the mind and the body. The relaxation techniques incorporated in yoga can lessen chronic pain, such as lower back pain, arthritis, headaches and carpal tunnel syndrome. Yoga is helpful in managing stress and lowering blood pressure. Regular practice of yoga creates mental clarity and sharpens concentration. You can gain the benefits of yoga by practicing at your desk. If any of the aforementioned benefits would be useful in your life, you will want to attend this enjoyable and relaxing class.

SCHEDULE & CLASS DESCRIPTIONS

9:45 a.m. to 10:45 a.m. – SESSION 3

3A Demeanor Evidence and Credibility, Part 2 (M) (Monday or Tuesday)

Gregory Ogden, Professor, Pepperdine University School of Law

This is a continuation of a two-hour session. Attendance at the first portion of the session is not a mandatory prerequisite for Part 2, but it is recommended. See description above at Session 2A.

3B Examining and Eliminating Our Implicit Biases, Part 2 (M)

Peter Hemenway, Administrative Law Judge, CA Department of Social Services (retired)

This is a continuation of a two-hour session. This second hour of the session will deal with biases we may have which affect us but are not protected (e.g. based on attractiveness, accent, height, weight, etc.) Attendance at the first portion of the session is not a mandatory prerequisite for Part 2, but it is recommended. See a description of Part 1 above at Session 2B.

3C Yoga at Your Desk, Part 2 (E)

Bonny Fetch, ALJ (retired), ND Office of Administrative Hearings; Registered Yoga Instructor

This is a continuation of a two-hour session. Attendance at the first portion of the session is not a mandatory prerequisite for Part 2, but it is recommended. See description above at Session 2C.

11:00 a.m. to 12:00 p.m. – SESSION 4

4A Hearsay: Determining Reliability for Admission (M)

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

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

This lively, interactive session, examines interesting examples of hearsay taken from actual administrative hearings. Discussion will center on evaluating the dependability of hearsay based on the source from which the hearsay originates and the circumstances under which the hearsay statement was made. Hearsay exceptions found in the Federal Rules of Evidence will be mentioned, but emphasis will be on evaluating the reliability of hearsay from a practical, common-sense perspective.

4B Handling Hearings Involving Pro Se Parties & Witnesses/Parties Who Cannot Read! (M)

James Gerl, Esquire, Scotti & Gerl, Lewisburg, West Virginia

In this highly interactive session, Jim Gerl will discuss and explore administrative hearing officer strategies for dealing with both difficult *pro se* parties and witnesses or parties who are illiterate. Best practices as well as constitutional requirements will be examined.

4C Understanding and Overcoming Procrastination (E)

Clayton Mansfield, Appeals Officer, Internal Revenue Service

Procrastination is avoiding a task which needs to be accomplished. It is the practice of doing more pleasurable things instead of unpleasant ones, or doing nonessential tasks and putting off important tasks to a later time. Most of us, at one time or another, procrastinate. This session deals with what happens when procrastination becomes chronic and destructive, impacting your work as a hearing officer and/or your relationships with your supervisor, co-workers, friends or family. This seminar will discuss the causes of the behavior, recognizing the symptoms, and ways to overcome the problem.

12:15 p.m. – 12:45 LUNCHEON IS SERVED

12:45 p.m. KEYNOTE ADDRESS

THE CLERK, THE THIEF AND THE BAKER: THE SUPREME COURT SCANDAL OF 1919

The Honorable John B. Owens, Judge, U.S. Court of Appeals for the Ninth Circuit

SCHEDULE & CLASS DESCRIPTIONS

2:15 p.m. to 3:15 p.m. – SESSION 5

5A Judicial Ethics for Hearing Officers, Part 1 (M)

Gregory Ogden, Professor, Pepperdine University School of Law

Applicability of codes of judicial ethics to administrative law judges and other hearing officials; core ethics principles, such as impartiality and neutrality in decision making, conflicting financial interests, honesty, integrity, pro se litigants, doubts about impartiality, bias and prejudice, and courtroom behavior; ethics issues specific to administrative adjudicators include separation of functions, *ex parte* contact, and attempts to influence the decisional process and are discussed using real-world hypotheticals. Principles of judicial ethics, due process, statutory disqualification, are integrated into a comprehensive presentation.

5B Ruling on Objections (Virtually) Without Anxiety, Part 1 (M)

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

This is not your typical class consisting of a review of the rules of evidence. This spirited class will provide a common-sense approach to ruling on objections utilizing discussion and video clips from some memorable movies to illustrate important points. This session will also provide techniques for handling the unusual or problematic objection as well as tips on what to do when the attorney who raised the objection wants to argue about your ruling. If ruling on an objection has ever caused you anxiety, come to this enjoyable class and receive some practical advice.

5C Problematic Communications and Obstructions to Decisiveness (M)

Karen Gorman, Inspector General and Chief Hearing Officer, Los Angeles Co. Metro Transp. Authority

This session explores: (1) The handling of *ex parte* communications with the hearing officer by parties, witnesses, the press, or other communications that occur outside the hearing that might appear to influence the hearing officer; and (2) Methods to reduce delays and agony that flow from the indecisiveness that naturally occurs for hearing officers in pursuit of fairness.

3:30 p.m. to 4:30 p.m. – SESSION 6

6A Judicial Ethics for Hearing Officers, Part 2 (M)

Gregory Ogden, Professor, Pepperdine University School of Law

This is a continuation of a two-hour session. Attendance at the first portion of the session is not a mandatory prerequisite for Part 2, but it is recommended. See a description above at Session 5A.

6B Ruling on Objections (Virtually) Without Anxiety, Part 2 (M)

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

This is a continuation of a two-hour session. Attendance at the first portion of the session is not a mandatory prerequisite for Part 2, but it is recommended. See a description above at Session 5B.

6C Rulemaking and Why You Need to Know About It (E)

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

Even if you don't make rules (also known as regulations or codes) yourself, it's a virtual certainty that your agency does. Each jurisdiction has a detailed process for making rules that are explained in statutes, albeit somewhat ambiguously. Consequently, when agencies make rules, they can make mistakes in doing so if they fail to follow the prescribed process. Does failure to follow the process nullify the rule? How do you deal with petitioners' complaints that the agency has no jurisdiction to act against them because it did not follow the requisite statutory formula to enact the rule? Is this a common problem? What are your powers? What are your obligations?

SCHEDULE & CLASS DESCRIPTIONS

TUESDAY, SEPTEMBER 11, 2018

8:30 a.m. to 9:30 a.m. – ANNUAL GENERAL MEMBERSHIP MEETING –

9:45 a.m. to 10:45 a.m. – SESSION 7

7A History and Development of Administrative Law, Part 1 (M)

Gregory Ogden, Professor, Pepperdine University School of Law

Discussion of the nature, history, and evolution of American administrative law. Topics will include the history of administrative law in the United States, starting with the early federal agencies (ICC, FTC), the New Deal expansion of federal agencies, the adoption of the federal APA, the later expansion of federal agencies in the 1960s and 1970s, and the evolution of state administrative law, including the rise of worker's compensation agencies, and state pension laws, the adoption of the MSAPA, and the development of state agencies in social welfare fields as a response to federal laws, and money. Other topics include types of agencies and administrative agencies functions in the executive branch, development of administrative adjudication and rulemaking, and the important roles played by the courts in developing the law governing administrative agencies.

7B Handling Encounters With “High Conflict” People, Part 1 (M)

Richard Murrell, Administrative Judge, Tennessee Administrative Procedures Division

Sometimes, disruptive behavior during hearings or mediations is not merely about the current “issue.” Some people with untreated behavioral disorders have a pattern of “high-conflict” behavior regardless of the setting. Unless you know how to recognize high-conflict people, the way in which you deal with them may increase the conflict rather than resolve it. Typical methods of mediating or of hearing-control often escalate high-conflict behavior. Part 1 will involve understanding and identifying high-conflict persons and the techniques that are essential for management of high-conflict encounters.

7C Due Process and the Mentally Challenged Court Petitioner (M)

Elizabeth Valenti, Ph.D., College of Social Sciences, Grand Canyon University

Kevin Walling, J.D., Department of Justice Studies, Grand Canyon University

Courts are challenged with meeting the needs of diverse populations while still meeting the requirements of due process. This presentation explores how to assist clients' or petitioners' varying psychological needs, how to potentially deescalate volatile situations from a psychological perspective, and how courts can see these challenges as opportunities to provide greater due process.

11:00 a.m. to 12:00 p.m. – SESSION 8

8A History and Development of Administrative Law, Part 2 (M) (Monday or Tuesday)

Gregory Ogden, Professor, Pepperdine University School of Law

This is a continuation of a two-hour session. Attendance at the first portion of the session is not a mandatory prerequisite for Part 2, but it is recommended. See a description above at Session 7A.

8B Handling Encounters With “High Conflict” People, Part 2 (M)

Richard Murrell, Administrative Judge, Tennessee Administrative Procedures Division

Part 2 of this session will involve methods for maintaining a professional demeanor in the face of conflict during both mediations and administrative hearings. It will also include techniques for handling conflicts related to hearing officials being perceived as having a bias against the high-conflict person. The session will conclude with suggestions regarding maintaining the hearing official's or mediator's safety during periods of conflict and advice on preserving personal security.

8C Evidence: Handling Controversial or Problematic Admissibility Questions (M)

Bonny Fetch, Administrative Law Judge (retired), North Dakota Office of Administrative Hearings

James Gerl, Esquire, Scotti & Gerl, Lewisburg, West Virginia

Paul Keeper, Administrative Law Judge (retired), Texas State Office of Administrative Hearings

Determining what evidence to admit and what to exclude in a hearing is one of the integral and often most difficult parts of a hearing official's job. Hearsay evidence is often problematic. This panel will address how to handle hearsay evidence and other controversial or problematic admissibility questions which have been submitted by NAHO hearing officials.

SCHEDULE & CLASS DESCRIPTIONS

12:15 p.m. – 2:00 p.m. AWARDS LUNCHEON

Janice Deshais, NAHO President

2:15 p.m. to 3:15 p.m. – SESSION 9

9A How to Be An Administrative Hearing Officer, Part 1 (M)

James Gerl, Esquire, Scotti & Gerl, Lewisburg, West Virginia

This session goes to the very heart of what a hearing officer does. There will be discussion on the following: making a complete record; controlling the proceeding; dealing with witnesses, exhibits, objections and related topics. The presenter will reveal his Eight Rules for conducting a hearing.

9B Meditation: Taming Your Monkey Mind, Part 1(E)

Bonny Fetch, ALJ (retired), North Dakota Office of Administrative Hearings; Registered Yoga Instructor Our minds are constantly in motion, jumping from thought to thought about things that happened in the past, what is going on in the present, and what might happen in the future. This constant chatter of the mind is referred to as “monkey mind.” As a result of “monkey mind,” it is almost impossible to slow down and enjoy the present or function effectively in the present. Meditation is the active process of encouraging stillness in the mind and is one of the most effective ways to tune down constant monkey mind chatter. Even a few minutes of meditation a day can reduce anxiety and stress levels and dramatically improve ability to cope with everyday life. This is a two-part class which will provide tools to help you develop a meditation practice and tame your monkey mind. In order to gain the benefit of this class, please plan to attend both sessions and wear comfortable clothing.

9C Decisions, Decisions (M)

Paul Keeper, Administrative Law Judge (retired), Texas State Office of Administrative Hearings

In this one-hour presentation, former master administrative law judge Paul Keeper will review the essentials of clear decision-writing. The presentation will cover topics that include the art of the story, the target-like quality of the issues, and the requirements of legal analysis. Examples will be drawn from recent administrative decisions.

3:30 p.m. to 4:30 p.m. – SESSION 10

10A How to Be An Administrative Hearing Officer, Part 2 (M)

James Gerl, Esquire, Scotti & Gerl, Lewisburg, West Virginia

This is a continuation of a two-hour session. Attendance at the first portion of the session is not a mandatory prerequisite for Part 2, but it is recommended. See a description above at Session 9A.

10B Meditation: Taming Your Monkey Mind, Part 2 (E)

Bonny Fetch, ALJ (retired), North Dakota Office of Administrative Hearings; Registered Yoga Instructor

This is a continuation of a two-hour session. Attendance at the first portion of this two-hour session is a mandatory prerequisite for Part 2. For a detailed session description, see Session 9B above.

10C Excuse Me: Interrupting Racial, Ethnic and Gender Biases (M)

Professor Christine Chambers Goodman, Pepperdine School of Law

The session will explain implicit bias and provide examples of its subtle manifestations. After a brief review of anti-discrimination laws and statistics, we will discuss specific manifestations of race, gender and ethnicity bias in hearings, proceedings and other courtroom interactions. This presentation has three objectives: (1) to show administrative law judges and hearing officers how to identify manifestations of implicit bias; (2) to provide concrete strategies for reducing their own biases, and (3) to demonstrate communication tips for address and responding to biases in others.

SCHEDULE & CLASS DESCRIPTIONS

WEDNESDAY, SEPTEMBER 12, 2018

8:30 a.m. – 9:30 a.m. – SESSION 11

11A Listen Up: How Cultural Biases Impact Justice (M)

Professor Christine Chambers Goodman, Pepperdine School of Law

This interactive presentation will focus on how cultural differences can impact the fair administration of justice. While many administrative law judges and hearing officers try to be aware of racial, ethnic and gender biases, most would not realize that they may be treating claimants and their representatives differently based on such characteristics as language, accent, poverty, or age, among others. The objective of this presentation is to activate more conscious scrutiny to help the participants recognize when other biases may be operating beneath the surface so they can take steps to correct potential unfairness.

11B Alternative Dispute Resolution and Administrative Agencies (E)

Paul Keeper, Administrative Law Judge (retired), Texas State Office of Administrative Hearings

For 30 years, former ALJ Paul Keeper has used alternative dispute resolution (ADR) skills in helping parties resolve disputes. How can mediation or arbitration work in an administrative setting? What are the unique challenges when an agency is one of the parties to a mediation? Who should--and who shouldn't--participate in administrative ADR processes? These and other topics will be covered, with generous opportunities for questions and answers.

11C Judicial Reasoning for Hearing Officials (M)

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

Janice Deshais, Esq., Director, Office of Adjudications, CT Dept. of Energy & Environmental Protection

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

Decision-making is at the heart of the work of hearing officials. But how do we arrive at our ultimate conclusions? Is there a special formula that will help us render a decision that will withstand review? Are there techniques that can help us with the reasoning process? If you struggle with the cognitive process of decision-making or if you often wonder if you've reached the right conclusions, this session may be of help to you.

9:45 a.m. – 10:45 a.m. – SESSION 12

12A How Due Process Impacts Administrative Hearings (M)

James Gerl, Esquire, Scotti & Gerl, Lewisburg, West Virginia

Long time hearing officer and popular NAHO lecturer Jim Gerl will ask you to consider exactly what "due process of law" means in terms of the work that a hearing officer does. This will not be an academic or law school style review of court precedent. Instead, we will examine what due process is and what it should look like in our hearings.

12B Advanced Mediation: Understanding Causes of Impasse and How to Avoid Them, Part 1 (E)

Richard Murrell, Administrative Judge, Tennessee Administrative Procedures Division

In this interactive two-part session, participants will explore the nature of impasse to gain an understanding of frequent causes of parties' inability to engage in or continue creative problem-solving. Participants will learn modalities to guide parties around or through impediments to agreements and how to deploy techniques to lead parties to accord.

12C Legal Research Without Lexis Nexus or Westlaw (M)

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

State and/or federal case law exists on every aspect of administrative law and on virtually every issue ever raised in your hearings. It's essential to know some of this case law and useful to know much of it. Do you know which cases have binding authority and how to access them? When an attorney cites a case new to you, can you tell whether it is on point, analogous to the issues or distinguishable from them? Do you know how and where to find it without Lexis Nexus or Westlaw? If not, this class should help you.

SCHEDULE & CLASS DESCRIPTIONS

11:00 a.m. – 12:00 p.m. – SESSION 13

13A Vendor Presentation: Video Surveillance and Access Control Security Through the Cloud

Wade Hoffman, Chief Technology Officer & Vice-President of Business Development, EarthBend/Clear2there

Learn how to protect and empower staff with the ability to easily monitor and manage a room, location, or multiple locations from anywhere in the world via internet connection simply by using a smartphone, tablet or internet-connected computer. Modern technologies allow control and viewing of surveillance cameras, door/facility access, thermostat and lighting controls, and even water, smoke and flood detection to provide rapid response. Businesses, municipalities and schools across the country are using these technologies to improve safety, drive power/cost efficiencies and save staff time.

13B Advanced Mediation: Understanding Causes of Impasse and How to Avoid Them, Part 2 (E)

Richard Murrell, Administrative Judge, Tennessee Administrative Procedures Division

This is a continuation of a two-hour session. Attendance at the first portion of this two-hour session is a mandatory prerequisite for Part 2. For a detailed session description, see Session 12B above.

13C Ethics: Independence, Impartiality and Integrity—the “I” Words That Should Define Us (M)

Peter Hemenway, Administrative Law Judge, CA Department of Social Services (retired)

Judging, done correctly, is not easy. While efforts to influence the process explicitly may be obvious, recognizing and dealing with possible implicit pressures is a skill this session is designed to sharpen. This class will examine how to recognize the pressures which affect you and safeguard the hearing process from the slightest appearance of partiality. Even the most discerning and experienced hearing official will benefit from a frank and open dialogue regarding implicit challenges and even political viewpoints which may impact hearing officials’ neutrality and independence. Finally, we will discuss the danger to the hearing officer who acts independently when the agency is expecting a particular result.

12:05 p.m. – CONFERENCE WRAP-UP – *Janice Deshais, NAHO President*

Toni Boone, NAHO Vice-President

Pick up information about NAHO Conference 2019 in New Orleans to take home!



THINGS TO DO IN SAN DIEGO

For those of you planning to do a little sightseeing, there are 24 city tours on land and 72 boat tours available in the San Diego area. The Marina Walk, which is adjacent to our host hotel, connects the bay area with the downtown locale. A stroll along this waterfront walkway will take you through a number of parks and the marina where bicycle and boat rentals are available. Our host hotel is located on Harbor Drive. A shuttle runs the length of Harbor Drive passing the Maritime Museum, the USS Midway, a number of piers, including the U.S. Navy Pier, and numerous shops and restaurants. The most popular attractions in San Diego area are:

- Gaslamp Quarter
- USS Midway Museum
- La Jolla Cove
- Balboa Park
- San Diego Zoo
- Mt. Soledad National Veterans Memorial
- Maritime Museum of San Diego

Among the popular pastimes in San Diego are Room Escape Games—a physical adventure game in which players solve a series of puzzles and riddles using clues, hints, and strategy to complete the objectives at hand. Players are given a set time limit to unveil the secret plot which is hidden within the room. There are 22 Room Escape Games in the San Diego area. It sounds like a great activity for a small group. Why not give it a try?

HOW TO REGISTER

To register for the conference online, visit the NAHO conference website at www.naho.org and click on this link: www.yesevents.com/naho. To register via US mail, please print the form from the website and mail the form and accompanying payment to 2018 NAHO Conference, c/o YesEvents, 1700 Reisterstown Rd., Suite 236, Pikesville, MD 21208. Registrations by facsimile may be sent to (410) 559-2217. For registration assistance, call (800) 937-8728. For all other conference-related questions, call (612) 760-2787.

FULL CONFERENCE REGISTRATION FEES THROUGH AUGUST 15, 2018

\$529 Full conference registration for NAHO member -- \$579 on or after Aug. 15

\$549 Full conference registration for Associate NAHO member -- \$599 on or after Aug. 15

\$599 Full conference registration for Non-Member -- \$649 on or after Aug. 15

Full conference registration fee includes the welcome reception on Sunday evening, September 9, 2018, and the luncheons on Monday, September 10 and Tuesday, September 11, 2018. Coffee and any other beverages that may be served at break times are also included.

PARTIAL CONFERENCE REGISTRATION FEES THROUGH AUGUST 15, 2018

One Day (five classes) NAHO members -- \$199/day, one day only -- \$249 on/after Aug. 15

One Day (five classes) Associate NAHO members -- \$219/day -- \$269 on/after Aug. 15

One Day (five classes) Non-Members -- \$249/day, one day only -- \$299 on/after Aug. 15

Half Day (up to 3 classes) NAHO members -- \$99/day, one day only -- \$149 on/after Aug. 15

Half Day (up to 3 classes) Associate NAHO members -- \$119/day -- \$159 on/after Aug. 15

Half Day (up to 3 classes) Non-Members -- \$149/day, one day only -- \$199 on/after Aug. 15

NAHO inadvertently scheduled the Conference during the observance of the Jewish holy days of Rosh Hashanah. NAHO extends its sincere apologies for this unfortunate oversight and has taken steps to ensure that this will not happen again. For those of you who will be unable to attend a portion of the Conference due to this scheduling error, NAHO is reducing its attendance rates for those impacted by this scheduling conflict.

Tuesday & Wednesday (1½ days/7 sessions) \$325 -- \$375 on/after Aug. 15

One-day registration fees include the luncheon on the day for which the attendee registered but do not include the Sunday evening reception. Half-day registration fees DO NOT include a luncheon on the day for which the attendee registered nor the reception but either may be purchased separately at the prices listed below.

Guests for the Reception, Luncheon and Banquet are welcome at the following costs:

\$40.00 Reception – Sunday, September 9, 2019

\$50.00 Luncheon and Keynote Address – Monday, Sept. 10

\$75.00 Luncheon and Awards Presentations – Tuesday, Sept. 11

PAYMENT POLICY

Pre-payment for full or partial registration may be made only by purchase order, payment voucher, or credit card. Prompt payment is expected. NAHO will assess a \$75 monthly late charge per registrant on the first of every month for payments 60 days overdue from the date of billing and every 30 days thereafter. At the time of registration, NAHO must be informed of any information or materials that will be needed by an agency or state to process payment. Walk-in registrations are welcome, however all walk-in registration fees may only be paid by credit or debit card. No purchase orders or payment vouchers will be accepted for walk-in registrations.

CANCELLATION POLICY

To receive a full refund, a request must be received on or before 5 p.m. EST, August 15, 2018, and sent by email to NAHOinfo@yesevents.com. A cancellation fee of \$75 will be deducted from your refund for cancellations made after 5 p.m. EST on August 15 through September 8, 2018. NO REFUNDS WILL BE GIVEN for cancellations received on or after September 9, 2017. Registration fees may be transferred but may only be transferred once. (The fee may be transferred to another registrant to attend the 2018 conference or the fee may be applied to the cost of the registration fee to attend the 2019 conference. In no case may a registration fee be transferred beyond one year.)



National Association
of Hearing Officials
2018 Annual Professional
Development Conference
Sept. 9-12, 2018

SAN DIEGO

National Association of Hearing Officials
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Fort Worth, TX 76163-0865

