



National Association of Hearing Officials
**2016 ANNUAL
PROFESSIONAL DEVELOPMENT
CONFERENCE**

Portland

September 11-14, 2016
Marriott – Downtown Waterfront
Portland, OR

FEATURING:

- Training sessions 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 advanced evidence, appellate review of administrative agency decisions, constitutional issues in administrative hearings, decision writing, due process, ethics, recent developments in state and federal administrative law, and witness credibility;
- Class modules covering specific areas of administrative hearing practice including administrative DUI hearings, Medicaid hearings, hearings regarding intentional violations of the SNAP program, and both school discipline and special education hearings.
- Keynote presentations by speakers who will inform, entertain and provoke with their insights on interesting topics; and
- Interaction with NAHO members, administrative hearing officials, faculty and others from across the country.

**WHO SHOULD
ATTEND?**

- Hearing Officers
- Administrative Law Judges
- Attorneys
- Hearing Program Managers
- Mediators/Arbitrators
- Hearings Representatives/Advocates
- Paralegals

Message FROM THE PRESIDENT

Dear Colleagues:

I am pleased to invite you to the 2016 professional development conference to be held in beautiful Portland, Oregon from Sunday, September 11 to Wednesday, September 14. This annual gathering of hearing officials and faculty promotes the advancement of knowledge in our world of adjudicatory hearings, provides training on a variety of subjects, and allows for the exchange of ideas and experiences with your peers. The weather in Portland should be wonderful, with temperatures comfortably in the 70s (and even the low 80s) during the day with cooler evenings in the 50s. The sun should be shining, but an umbrella for unexpected showers is always a good idea. Oregon's largest city, Portland sits on the Columbia and Willamette rivers, in the shadow of snow-capped Mount Hood. Close to excellent wineries, Portland is known for its parks, bridges and bicycle paths, as well as for its microbreweries and coffeehouses. Iconic Washington Park encompasses sites from the formal Japanese Garden to the Oregon Zoo. The City is the home of the famous Powell's City of Books (Google it!) and thriving art, theater and music scenes.



The conference will be held at the newly-renovated Marriott Downtown Waterfront hotel, which overlooks a waterfront park and the Willamette River. The hotel is a 5-minute walk from the Riverplace Marina, which features shopping and great restaurants. The hotel has a fitness facility, a bistro and a wonderful lobby lounge where nightly complimentary "toasts" feature local brews and wines. The hotel is accessible from the airport by the City's light rail system and by a shuttle service. Conference rooms feature windows that look out on trees and greenery – no "hotel conference room" claustrophobia!

The conference planning committee, led by Vice President Toni Boone (OR), has prepared an impressive program of training, including an exciting offering this year - live oral argument before the Oregon Court of Appeals! Read through the program outlined in this Brochure and you will see that the Conference is structured to deliver an array of educational courses on general administrative law topics, hearing practice, and specialized subjects such as assessing credibility, working with interpreters, courtroom security, special evidentiary problems, the self-representing litigant, ethical issues for lawyers and judges in administrative proceedings 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, local appellate judges, knowledgeable attorneys, and experienced administrative adjudicators.

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 reception, daily morning coffee with treats, the Monday luncheon, and the Tuesday evening reception and awards banquet. Please look at our extraordinary program and make your plans to join us in September.

I look forward to welcoming you to Portland!

Janice B. Deshais

Janice B. Deshais (CT), CHO
President

EXPLORE Portland



PARKS & OUTDOOR ACTIVITIES

Immerse yourself in endless opportunities for exploration. Enjoy your accommodations within walking distance to top Portland attractions, including concerts, culinary events, biking and kayaking at Waterfront Park. From the adventurous to the less daring, visitors will discover the outings they crave with our Portland parks and outdoor activities.



ENTERTAINMENT & SHOPPING

Enjoy all that makes this colorful city unique, right outside your front door. From outdoor music and food truck festivals to water events, beer and wine tastings and art walks, there's always something to do in Portland, OR, every day of the week.



DINING & HOT SPOTS

Indulge in a Portland dining experience you'll be talking about long after the trip. Enjoy the bounty of the Pacific Northwest with fresh, local fare, unique wines and craft brews available only in our colorful city. One taste and you will quickly realize that our downtown restaurants are Portland attractions themselves.

HOTEL & SPECIAL EVENTS



MARRIOTT PORTLAND DOWNTOWN WATERFRONT

1401 SW Naito Parkway
Portland, Oregon 97201
Telephone: (503) 226-7600
Toll free: (877) 901-6632
<https://resweb.passkey.com/go/NAHO2016conference>



WELCOME RECEPTION

Sunday, September 11
6:00 pm – 8:00 pm
2nd Floor Foyer at Mt. Hood Room



LUNCHEON

Monday, September 12
11:45 am – 1:00 pm
Mt. Hood Room



BANQUET

Tuesday, September 13
Social Hour 6:00 pm
Dinner 7:00 pm Mt. Hood Room

MAKING YOUR HOTEL RESERVATIONS

The Marriott-Portland Downtown Waterfront is offering NAHO conference attendees the 2016 federal per diem rate for Oregon, which is \$151.00 per night. This rate is subject to applicable state and local taxes (currently 15.3%). The deadline to receive this conference rate for your hotel room is August 26, 2016. After August 26, guestrooms may or may not be available. Also, after this date rooms, if available, will be at the hotel's usual prevailing rate.

Marriott's 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://resweb.passkey.com/go/NAHO2016conference>

Reservations may also be made by calling toll free (877) 901-6632. Please refer to the National Association of Hearing Officials Conference, September 9-14, 2016. All reservations must be accompanied by a first night room deposit or guaranteed with a major credit card. You may cancel your reservation for no charge 24 hours prior to check-in time on your scheduled arrival date. Cancellations made less than 24 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

There are three easy ways to get from the Portland International Airport (PDX) to the Marriott-Portland Downtown Waterfront: Max Light Rail, Blue Star Shuttle or by taxicab.

The **Max Light Rail** is a system consisting of five separate light rail lines that service the Portland Metropolitan Area. This service is available from the airport beginning at 4:57 a.m. and ending at 11:49 p.m. daily. Trains run every 15 minutes or less. The cost is \$2.50 for adults aged 18 to 64 and \$1.25 for Honored Citizens (65 and over) and Youths. To reach the train from Baggage Claim, go DOWN the escalator one level to the Max Light Rail stop. Max designates different routes by color. Take the Max Red Line which goes from the "Airport" toward the "City Center." You'll wish to exit the train at stop number #8381 which is at SW 3rd Street and SW Morrison (the closest stop to the hotel). After you exit, walk southeast on Morrison for three blocks until you reach Naito Parkway. Turn right on Naito Parkway, walk 6 blocks and you've arrived. If this seems like a great distance, remember that blocks in Portland are only 200 feet in length. It's a ten-minute stroll of less than one-half mile. The hotel address is 1401 SW Naito Parkway, Portland, OR 97201.

Blue Star Shuttle also travels between PDX and downtown hotels. The cost of travel between the airport and the hotel via shuttle is \$14 each way. For advance shuttle reservations, you may contact Blue Star Shuttle at www.bluestar.com or call them at 800-247-2272. To access the shuttle from the airport, you merely exit from the Baggage Claim level and cross two streets to Island 3.

There are numerous taxicabs that can transport you from the airport to the Marriott-Portland Downtown Waterfront. Cost of travel from the airport to the hotel via taxi could be as much as \$50, depending on traffic and the generosity of your tip. Taxicabs are also available at Island 3.

NAHO MEMBERSHIP

If you are interested in joining NAHO for the first time or have been away for awhile, now is the time to join! You can now join NAHO online! Go to www.naho.org to submit a membership application and pay your membership dues! For those who prefer, membership applications may also be mailed to NAHO Membership, 847 South Dorset Place, Eagle, Idaho 83616. If you are using PayPal to pay for your membership, please include a copy of your PayPal receipt with your application form. A copy of the PayPal receipt may also be emailed to membership@naho.org.

NAHO membership is open to all current and former administrative hearing officials. The Membership Committee considers all applications for regular membership. Associate membership is available for those whose status does not meet the definition of administrative hearing officials. Associate memberships are considered by the NAHO Board at its next regularly scheduled meeting. 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 Membership

New or lapsed membership: \$45 for one year or \$105 for three years

Membership Renewal: \$35 for one year or \$90 for three years

Groups Membership

Groups of 5 to 24 (from the same agency, paying at same time)

New or lapsed membership: \$40 per person

Membership Renewal: \$30 per person

Groups of 25 or more (from same agency, paying at same time)

New or lapsed membership \$35 per person

Membership Renewals \$25 per person

Questions regarding membership may be directed to Eric Moody, Membership Committee Chair, at membership@naho.org. The membership application is located at www.naho.org/join-naho/membership-in-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 for hearing officers and administrative law judges.

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 **2016**. 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, visit www.naho.org. Individuals seeking certification or recertification at the 2016 conference should submit complete applications postmarked by **August 1, 2016** to:

NAHO Certification Committee
C/O Michael Blain, Chairman
2253 Monaghan Drive
Tallahassee, Florida 32309

FEATURED SPEAKERS

Honorable Thomas A. Balmer Chief Justice Oregon Supreme Court

Opening Keynote Address, Monday, September 12, 9:00 a.m.



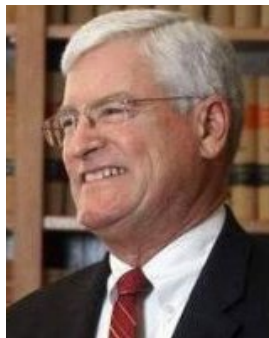
Chief Justice Balmer was raised in Portland and attended Portland Public Schools. He received his J.D. from the University of Chicago Law School in 1977 and his A.B. from Oberlin College in 1974. After 16 years of private practice in Boston, Washington D.C. and Portland, he began service as a Deputy Attorney General of Oregon (1993-97) under Attorney

General Theodore R. Kulongoski. He returned to private practice for 5 years before being appointed to the Supreme Court in 2001. He was elected in 2002 and re-elected in 2008 and 2014. He was chosen by his colleagues as Oregon's 43rd Chief Justice and began service on May 1, 2012.

Chief Justice Balmer has participated in various international legal programs, including lecturing on judicial ethics in Tashkent, Uzbekistan (under the auspices of the United Nations); working with judges and schools on law-related education in Zagreb, Croatia, and speaking to judges and court administrators through the Russian-American Rule of Law Consortium. He is also a member of the Board of Directors of the Conference of Chief Justices. He has been as an Adjunct Professor of Law at Lewis & Clark School of Law and an Adjunct Professor of Political Science at Lewis & Clark College. He is the author of numerous articles, book reviews, book chapters and op-ed columns on antitrust, constitutional law and other topics. In the wider community, Chief Justice Balmer has been a volunteer the Goose Hollow Family Shelter since 1994 and served as a founding Board Member (2000-01) of the Portland Parks Foundation and as a Board Member of Chamber Music Northwest (1997-2003).

Honorable Robert D. Durham Associate Justice (retired) Oregon Supreme Court

Luncheon Address, Monday, September 12, 12:00 noon



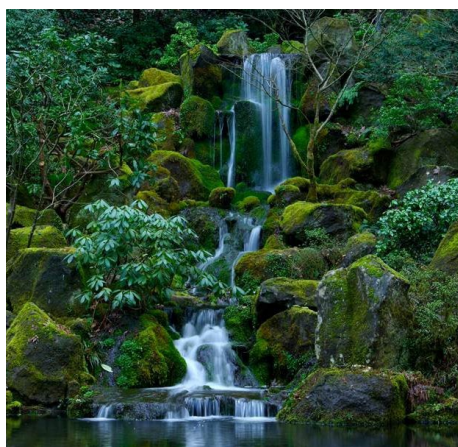
The Honorable Robert D. Durham served as an Associate Justice of the Oregon Supreme Court from 1994 through 2012 and on the Oregon Court of Appeals from 1991 to 1994. He holds an LL.M. in Judicial Process from the University of Virginia School of Law (1998), a law degree from the University of Santa Clara School of Law (1972), and a bachelor's degree

from Whittier College (1969). He clerked for the Oregon Supreme Court (1972-74) and practiced law in Eugene and Portland (1974-1991), focusing primarily on labor law, civil rights, and appellate practice in state and federal courts.

He served on the Council on Court Procedures, and the Criminal Law Committee of the Oregon Judicial Conference as well as President of the Oregon Appellate Judges Association (1996-1997), on the faculty of the National Judicial College (1992), on the Oregon Rules of Appellate Procedure Committee (1994-1998), and as Chair of the Governor's Commission on Administrative Hearings (1989-1990).

Justice Durham currently serves as a pro tem judge on the Multnomah County Circuit Court, as an adjunct law professor at Lewis and Clark School of Law where he teaches Torts II and Advanced Trial Practice, and conducts civil dispute resolution proceedings throughout Oregon.

Justice Durham's speech is entitled: *Listening at the Curtain: Rants and Raves on Administrative Law from Inside an Appellate Court Conference Room.*



SCHEDULE & COURSE DESCRIPTIONS

SUNDAY, SEPTEMBER 11, 2016

Registration –

8:00 a.m. to 12:00 noon – Mt. Hood Foyer
(2nd floor between Truss Restaurant & Mt. Hood Room)

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

APPELLATE REVIEW OF ADMINISTRATIVE AGENCY DECISIONS, PART 1
(HEARING RE-ENACTMENT FOLLOWED BY ROUNDTABLE DISCUSSIONS)

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

Assisted by the following discussion facilitators:

Toni Boone, ALJ, Nevada Department of Motor Vehicles (retired)

Janice B. Deshais, Director/Hearing Officer, Connecticut Department of Energy & Environmental Protection

Peter Halbach, Chief Hearing Officer, North Dakota Department of Transportation

Norman Patenaude, Chair, Workers' Compensation Appeals Board, New Hampshire Department of Labor

Linda Snow, Special Projects Program Manager, Texas Health and Human Services Commission

Experienced appellate judge and teacher, W. Michael Gillette, will guide all attendees through a brief summary overview of the appellate review of administrative agency decisions and will introduce an interesting administrative agency case—the one about which the Oregon Court of Appeals will be receiving oral arguments on Tuesday morning of our conference. After the hearing re-enactment, the class will separate into three smaller groups for discussion of appellate review in general and of the upcoming case in particular.

AFTERNOON

Free Time – The shops and malls of Pioneer Courthouse Square are within a 15-minute walk of the hotel. At Pioneer Courthouse Square you can join a tour group for a walking tour of the city or you can pick up a transit map and catch either the MAX light rail or a city bus to take you all over the city. Massive Washington Park contains the International Rose Test Garden, the formal Japanese Garden, the Oregon Zoo, the Hoyt Arboretum and other attractions. You shouldn't leave Portland without visiting Powell's City of Books or Voodoo Doughnuts. Taking a tour of the "Shanghai Tunnels" beneath Portland is a favorite activity of many visitors. The city is known for its micro-breweries (58 of them), great coffeehouses and restaurants, and thriving art, theater and music scenes. Near Portland are literally hundreds of excellent wineries and more than 20 tasting rooms in urban Portland alone. Mere steps across the street from the host hotel is the city's Waterfront Park with acres of paved walking and biking trails, the Battleship Oregon Memorial, the Police Memorial, the Japanese American Historical Plaza, the sternwheeler *Portland*, which houses the Oregon Maritime Center and Museum, numerous springs and fountains, and the eclectic shops and restaurants of the Riverplace Marina.

WELCOME RECEPTION

6:00 p.m. – 8:00 p.m. – Mt. Hood Room, Second Floor, Portland Marriott-Downtown Waterfront

MONDAY, SEPTEMBER 12, 2016

Registration –

8:00 a.m. to 4:00 p.m. – Mt. Hood Foyer
(2nd floor between Truss Restaurant & Mt. Hood Room)

8:30 a.m. – 9:00 a.m. – OPENING REMARKS – Janice Deshais, NAHO President
Local Welcome Speaker: Tim Mongin from Travel Portland

9:00 – 9:45 am –SESSION 2

OPENING ADDRESS –

The Hon. Thomas A. Balmer, Chief Justice, Oregon Supreme Court

SCHEDULE & COURSE DESCRIPTIONS

10:00 am to 11:30 am – SESSION 3

(1) WRITING (VIRTUALLY) APPEAL-PROOF DECISIONS (M)

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

To mount a potentially successful administrative appeal, the appellant looks for flaws in the ALJ's written decision. What are those types of errors and how can an ALJ most easily avoid making them? This class will review appellate trends and some suggestions that an ALJ may use to lessen the potential for reversal.

(2) MAKING OBJECTIVE DECISIONS IN A SUBJECTIVE WORLD: HOW TO RESIST PRESSURE TO BE PARTIAL (M)

Janice B. Deshais, Director/Hearing Officer, Connecticut Department of Energy & Environmental Protection

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

Norman Patenaude, Chair, Workers' Compensation Appeals Board, New Hampshire Department of Labor

This course will focus on the dilemma that many adjudicators face as employees of governmental agencies or commissions whose administrative determinations are appealed to other hearing officials or to tribunals. The discussion will cover the applicable provisions of the Administrative Procedures Act, due process considerations, ethical issues, ex parte communications, the role of public-interest advocacy groups, media attention and other improper influences. The panel will present hypothetical case studies and discuss practical solutions for hearing officials who want to maintain their independence and issue objective decisions despite outside interference or influence. If this describes situations you are facing or may face, you will want to participate in this discussion.

(3) COMMON ISSUES, DEEPER ANALYSIS IN DUI ADMINISTRATIVE HEARINGS (S)

Peter Halbach, Chief Hearing Officer, North Dakota Department of Transportation

The details of the administrative hearing process for suspensions/revocations for operating vehicles under the influence of alcohol or drugs may vary from jurisdiction to jurisdiction, but certain issues are common. This course will address these common issues that remain problematic or challenging: what evidence is admissible and sufficient for establishing "reasonable grounds," what are the elements of "actual physical control," and what constitutes a refusal. In addition, the distinctions between the due process requirements and the admissibility of evidence in the criminal and administrative venues will be reviewed. Be ready to delve deeper and further develop your knowledge regarding these issues and others raised by class attendees.

11:45 – 1:00 – SESSION 4 – LUNCHEON – MT. HOOD ROOM

LISTENING AT THE CURTAIN: RANTS AND RAVES ON ADMINISTRATIVE LAW FROM INSIDE AN APPELLATE COURT CONFERENCE ROOM (E)

The Hon. Robert D. Durham, Associate Justice, Oregon Supreme Court (retired)

1:15 – 2:45 pm – SESSION 5

(1) DESSERT FIRST? BECAUSE LIFE IS JUST SHORT ENOUGH (M)

Stella K. Shiroma Nakama, Esquire, Affinity Works, LLC

Stella Shiroma Nakama focuses on decision-making as a life process of self-improvement, and what matters in the end. For context, she draws from her professional and personal experiences in the ancient worlds of affirmative action and aging, touching on issues of diversity/inclusion and physical/cognitive capacity. Consider how starting at the end can make the complex decision-making processes at work and life more efficient . . . and acceptable.

(2) THINGS THAT DRIVE US CRAZY: COMMON MISTAKES IN PRESENTING YOUR CASE (E)

Janice B. Deshais, Director/Hearing Officer, Connecticut Department of Energy & Environmental Protection

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

Gary Tyler, Chief Administrative Law Judge, Oregon Office of Administrative Hearings

Designed for practitioners and adjudicators alike, learn from an experienced panel what they expect from attorneys appearing before them respecting the law, the rules of administrative practice, the presentation of evidence to support facts, and general behavior. Unfortunately, incorrect assumptions regarding administrative hearings are common and this leads to some common errors. Learn how to avoid both during this lively panel discussion.

SCHEDULE & COURSE DESCRIPTIONS

(3) MEDICAID 101 – HOLDING MEDICAID HEARINGS IN 2016 (S)

Kayla Adams, Hearings Manager, Texas Health & Human Services Commission

Joseph Rubenstein, Senior Judge, Minnesota Department of Human Services

Linda Snow, Special Projects Program Manager, Texas Health and Human Services Commission

This course focuses on the substance and process involved in holding a typical Medicaid hearing and the changes to federal quality control for the hearings under the Affordable Care Act. The course will also provide an overview of selected procedural and substantive issues arising in hearings in states that have state-based health care exchanges.

3:00 - 4:30 pm – SESSION 6

(1) CHALLENGING THE HEARING OFFICIAL'S EVIDENTIARY EXPERTISE:

ADMISSIBILITY, PRIVILEGE AND DAUBERT (M)

John Henry Hingson, III, Attorney, John Henry Hingson III, PC

James E Mountain, Jr., Attorney, Shareholder, Harrang Long Gary Rudnick PC

Parties and Lawyers expect that Hearing Officials are experts on evidence; Hearing Officials expect that Lawyers, at least, understand the evidentiary standards and the role of the Hearing Official in administrative hearings. So much for Great Expectations! This advanced evidence class has the lofty aspiration of bringing those Great Expectations a little closer to reality. Enjoy as two of Oregon's most experienced Administrative Law litigators bring life to what can otherwise be a wearisome subject. The instructors will endeavor, in this spirited class, to educate, inspire and perhaps infuriate (unintentionally, of course).

(2) INTERPRETERS: WHEN AND WHY A HEARING OFFICER NEEDS THEM (M)

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

Linda Snow, Special Projects Program Manager, Texas Health and Human Services Commission

Do you have litigants appearing before you who speak little or no English? What about a party who is hearing impaired? In these instances, it is the hearing officer's responsibility to obtain a spoken language or sign language interpreter. This course covers the nuances of assessing the need for an interpreter and issuing interpreter's oaths. In addition, the session discusses interpreter's roles and obligations in a hearing and the difference between direct interpretation and summary interpretation. Finally, the class provides tips for effectively working with interpreters, and ensuring a full, fair, and complete hearing record.

(3) EXAMINING AND OVERCOMING OUR IMPLICIT BIASES (M)

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

Many people, and most HOs, believe that they have few biases, and if they do, they're aware of them. Since they believe they're either unbiased or aware of all the biases they might have, they're under the impression their biases don't exist or can be set aside and will not affect their role as impartial fact-finders. This class will explore whether these beliefs are true and, if not true, how those biases affect us when we conduct our hearings, when we make findings of fact, and when we write our decisions. We will look at the results of some studies of biases, 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 hearings.

TUESDAY, SEPTEMBER 13, 2016

8:00 a.m. – 9:10 a.m. – PLENARY SESSION

ANNUAL GENERAL MEMBERSHIP MEETING

9:30 a.m. – 10:45 a.m. – SESSION 7

(1) APPELLATE REVIEW OF ADMINISTRATIVE AGENCY DECISIONS, PART 2:

LIVE ORAL ARGUMENTS BEFORE THE OREGON COURT OF APPEALS

at St. Mary's Academy, 1615 SW 5th Ave., Portland OR 97201 (directions and a map will be provided)

The Oregon Court of Appeals conducts judicial review via three-judge panels. Happily for NAHO, the Court does not restrict oral arguments to their courtroom in Salem. The Court regularly, for educational purposes, sits at schools throughout Oregon. NAHO attendees will have the rare opportunity to view a live oral argument regarding the appellate judicial review, by the Oregon Court of Appeals, of the decision of a state administrative agency. This class will be conducted at St. Mary's Academy, an easy five-minute walk from the NAHO conference site.

SCHEDULE & COURSE DESCRIPTIONS

(2) Demeanor Evidence and Credibility (M)

Gregory Ogden, Professor, Pepperdine University School of Law

This class will review the nature, history and use of demeanor evidence to determine the credibility of witnesses in fact-finding. Discussion of other credibility factors recognized in evidence law including such things as consistency or inconsistency of statements and psychological research related to truth-telling and deception and how that research may apply to credibility determinations. Course will also include analysis of written decisions that include credibility determinations and use of demeanor evidence as part of fact-finding to provide hypothetical examples for class discussion.

(3) INTENTIONAL PROGRAM VIOLATION HEARINGS: THE ISSUE IS PROOF (S)

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

The SNAP (formerly Food Stamp) program provides for Agency-initiated hearings which penalize people by excluding them from the Program if at hearing the Agency can show, by "clear and convincing evidence", that the person charged has committed an Intentional Program Violation. (IPV). There will be a discussion of the Administrative Disqualification Hearing (ADH) process, and reference to some of the federal regulations which govern that program, and time will be allotted for specific questions. But at least half the class will be devoted to a discussion of evidence, and the kind of evidence necessary to meet the clear and convincing evidence standard.

11:00 a.m. – 12:30 p.m. – SESSION 8

(1) JUDICIAL ETHICS FOR HEARING OFFICIALS (M)

Gregory Ogden, Professor, Pepperdine University School of Law

Discussion of the applicability of codes of judicial ethics to administrative law judges and other hearing officials; discussion of core ethics principles applicable to adjudicators, such as impartiality and neutrality in decision making; discussion of typical ethical issues common to all adjudicators whether in the court system, or in administrative agencies such as conflicting financial interests, honesty and integrity, pro se litigants, reasonable doubts about impartiality, bias and prejudice, and courtroom behavior; discussion of judicial ethics issues specific to administrative adjudicators including separation of functions, ex parte communications, and command influence in the decisional process. Each subject is discussed with hypotheticals from real world situations. Principles of judicial ethics, due process of law, statutory disqualification, and case law are integrated into a comprehensive presentation. Course includes extensive materials prepared in advance, and given to enrollees as part of a packet of course materials.

(2) HEARING SITE AND PERSONAL SECURITY FOR ALJs & HEARING OFFICERS

Tim Fox, Lieutenant, Oregon State Police

In the light of the many recent attacks on the judiciary, it is reasonable to believe that hearing officials, who also make unpopular decisions, could be at risk. This class will help hearing officials identify potential risks and aggressive behaviors before they escalate to a dangerous level, differentiate targeted/predatory aggression from reactive aggression, conduct threat assessments, and formulate and implement safety and security policies for both workplace and home. In addition, the class will include instructions regarding how to respond in "active threat" situations as well as recommendations for maintaining social media security.

(3) RULING ON OBJECTIONS (VIRTUALLY) WITHOUT ANXIETY (M)

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

This is not your typical class which consists of a lecture reviewing 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. In addition to a study of the guidelines for both raising and ruling on objections, this session will provide techniques for handling the unusual or problematic objection. If ruling on an objection has ever caused you anxiety, come to this enjoyable class and receive some practical advice.

SCHEDULE & COURSE DESCRIPTIONS

2:00 p.m. – 3:30 p.m. – SESSION 9

(1) INTRODUCTION TO LEGAL RESEARCH FOR NON-ATTORNEYS (M)

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

State or federal case law exists on every aspect of administrative law and on virtually every issue that has been raised in your hearings. It is essential to know some of this case law. It is 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? This class, for non-attorneys, will help with such questions.

(2) DEALING WITH *PRO SE* LITIGANTS IN ADMINISTRATIVE HEARINGS (M)

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

Dealing with pro se litigants in an administrative hearing is one of the most difficult problems for an administrative hearing officer. In this fast-paced and highly interactive session, long-time favorite NAHO faculty member, Jim Gerl, will discuss how to manage hearings involving *pro se* litigants. Among the challenges that will be addressed are: dealing with difficult *pro se* parties, making a complete record without becoming an advocate for either party, and requiring self-represented parties to follow the rules.

(3) PROTECTING YOUR DECISION ON APPEAL: WHAT AGENCY COUNSEL WANTS YOU TO KNOW (E)

Denise Fjordbeck, Attorney-In-Charge, Civil & Administrative Appeals, Oregon Department of Justice

On appellate review, the court, the parties and attorneys will be working from a cold record, including a transcription of the hearing, the pleadings and exhibits, and most importantly, the final orders that are issued. Making certain that this record is complete and clear is among the most important things a hearing officer can do to ensure that the order stands up to appellate scrutiny. This segment will cover some dos and don'ts and will share some stories of preventable mishaps from the perspective of an agency's appellate counsel.

3:45 p.m. – 4:45 p.m. – SESSION 10

(1) RECENT DEVELOPMENTS IN FEDERAL ADMINISTRATIVE LAW (E)

William Funk, Distinguished Professor, Lewis and Clark School of Law

This course on Recent Developments in Federal Administrative Law includes recent developments regarding the constitutionality of Administrative Law Judges.

(2) DUE PROCESS HEARINGS: REGULAR & SPECIAL EDUCATION STUDENTS (S)

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

Cora Graves, J.D., Asst. Dir., Student Discipline, School Improvement & Operations, Gwinnett (GA)

To what extent, exactly, must we afford due process to students? During this workshop, Dr. Cora Graves and Attorney Jim Gerl will explore best practices for conducting school hearings. Attendees will receive tools to properly preside over due process hearings and make "firm, fair, and flexible" decisions. Examples of disciplinary hearings will be provided along with an overview of everything you ever wanted to know about how to conduct a hearing for a student in regular education classes accused of violating school rules and for students who receive special education support services.

(3) WHERE DOES THE TIME GO? TIME MANAGEMENT TIPS FOR HIGH VOLUME HEARING OFFICIALS (E)

Linda Snow, Special Projects Program Manager, Texas Health and Human Services Commission

Have you ever wondered why you cannot seem to get everything done? Do you think the clock is running faster, just for you, as your "to-do" pile just keeps getting bigger? Don't worry! You are not alone! This course covers the basics of time management and provides additional strategies to maximize your time. Learn how to start your day, set priorities, stay on track, and accomplish your "to-do" list.

ANNUAL AWARDS BANQUET – Mt. Hood Room, 2nd Floor

6:00 p.m. Reception/Social Hour; 7:00 p.m. Dinner

SCHEDULE & COURSE DESCRIPTIONS

WEDNESDAY, SEPTEMBER 14, 2016

8:30 a.m. – 10:00 a.m. – SESSION 11

(1) WHAT ARE & ARE NOT CONSTITUTIONAL ISSUES IN ADMINISTRATIVE HEARINGS (M)

James Gerl, Attorney, Scotti & Gerl, Lewisburg, West Virginia
Peter Halbach, Chief Hearing Officer, North Dakota Department of Transportation
Gregory Ogden, Professor, Pepperdine University School of Law

In many administrative hearings, attorneys and parties raise so-called constitutional arguments. In this session, long time NAHO faculty members, Professor Greg Ogden, Peter Halbach and Jim Gerl will offer their insights and opinions as to how hearing officers can and should get involved. Practical examples of constitutional objections and how they should be handled will be explored by this diverse and experienced panel.

(2) PUT IT IN WRITING: WRITTEN COMMUNICATIONS SKILLS FOR HEARING OFFICERS AND OTHERS (M)

Paul Keeper, Administrative Law Judge, Texas State Office of Administrative Hearings (retired)
What methods work best in the writing of interim orders, memoranda, and letters? Topics will include: Keeping your communications brief but complete, creating understanding by your style of communication, and controlling the next step of the written conversation. Participants will receive examples of effective communication that they may use in their practices.

(3) WORKING WITH AND EFFECTIVE COMMUNICATION STRATEGIES FOR DISABLED ADMINISTRATIVE COURT PETITIONERS (E)

Jessi Farmer, Assistance Professor, Grand Canyon University
Kevin Walling, Assistant Professor, Grand Canyon University
Mindful compliance with the Americans with Disabilities Act and related disabilities provisions is something that all administrative courts should adhere to. This presentation will review accommodations that administrative courts should be providing to the public for fair and equal access, as well as communication strategies that may be incorporated to better serve vulnerable populations within our communities.

10:15 a.m. – 11:45 a.m. – SESSION 12

(1) FLEXIBLE DUE PROCESS: HOW MUCH PROCESS IS DUE FOR YOUR HEARINGS? (M)

W. Michael (Mick) Gillette, Associate Justice, OR Supreme Court (retired)
At least since *Mathews v. Eldridge*, 424 U.S. 319, 96 S.Ct. 893 (1976), it has been understood that “due process” is a flexible concept. But how flexible? Are there some procedural elements that are indispensable? And how are you going to weigh a demand for more “process”? Justice Gillette brings years as a jurist and a teacher to this lively subject.

(2) HANDLING THE DIFFICULT PARTY (M)

Bonny Fetch, Administrative Law Judge, North Dakota Office of Administrative Hearings (retired)
Paul Keeper, Administrative Law Judge, Texas State Office of Administrative Hearings (retired)
Successfully dealing with a difficult party or representative requires patience, presence of mind, and caution. ALJs Fetch and Keeper will describe some of their experiences in refocusing the attention of the difficult party. The forum will rely, not only the ALJs’ prepared remarks and materials, but also on the participants’ questions and answers.

(3) WHY ALL THIS TALK ABOUT HEARSAY? (M)

Peter Halbach, Chief Hearing Officer, North Dakota Department of Transportation
Your jurisdiction may generally allow the admission of hearsay in administrative hearings or its admission may be subject to a more rigorous standard. Whatever the rules applicable to your hearings, questions about hearsay evidence are going to be raised, at least occasionally. This course is an opportunity for hearing officials to deepen their understanding of what hearsay is, what it is not, and when it matters. Attendees will also be invited to explore the relationship of hearsay to other evidence concepts, such as relevancy and materiality.

11:45 a.m. – CONFERENCE CLOSING – Janice Deshais, NAHO President
Toni Boone, NAHO Vice-President

HOW TO REGISTER

REGISTRATION JUNE 6 – SEPTEMBER 6, 2016

To register for the conference online, visit the NAHO conference website at www.naho.org. To register via US mail, please print the form from the website and mail the form and accompanying payment to 2016 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

- \$475.00** Full conference registration for non-member
- \$425.00** Full conference registration for NAHO member
- \$450.00** Full conference registration for non-member from Oregon
- \$400.00** Full conference registration for NAHO member from Oregon

Full conference registration fee includes the welcome reception on Sunday, September 11, 2016; the luncheon on Monday, September 12, 2016; and the banquet on Tuesday, September 13, 2016. Coffee and any other refreshments served at break times are also included.

PARTIAL CONFERENCE REGISTRATION RATES

One-Day Only (Four-Class) Registration

(Limited to either Tuesday or Wednesday but not both)

- \$200** One day for non-member
- \$150** One day for NAHO member
- \$175** One day for non-member from Oregon
- \$140** One day for NAHO member from Oregon

Half-Day (Two-Class) Registration Rates Per Each Half-Day

- \$100** Half-day for non-member
- \$75** Half-day for NAHO member
- \$90** Half-day for non-member from Oregon
- \$75** Half-day for NAHO member from Oregon

Partial conference registration fee does not include the reception, luncheon, or banquet. Partial registrants are invited to join these events at the guest rate noted below, in addition to the partial registration fee.

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

- \$35.00** Reception – Sunday, September 11, 2016
- \$40.00** Luncheon – Monday, September 12, 2016
- \$70.00** Banquet – Tuesday, September 13, 2016

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, September 6, 2016, and sent by email to NAHOinfo@yesevents.com. A cancellation fee of \$75 will be deducted from your refund for cancellations made from September 7 through September 9, 2016. **NO REFUNDS WILL BE GIVEN** for cancellations received on September 10, 2016, or later. Registration fees may be transferred but may only be transferred once. (The fee may be transferred to another registrant to attend the 2016 conference, or the fee may be applied to the cost of the registration fee to attend the 2017 conference. In no case may a registration fee be transferred beyond one year.)

SCHOLARSHIPS AVAILABLE FOR 2016 PROFESSIONAL DEVELOPMENT CONFERENCE

The NAHO Board of Directors has authorized a limited number of scholarships to NAHO members to attend the 2016 Professional Development Conference. These NAHO scholarships cover the total conference registration fee and all group meals that are a part of the conference. NAHO scholarships do not cover travel expenses, lodging expenses or meals that are not provided as a part of the conference. Applicants for the NAHO scholarships must be members in good standing of NAHO.

The National Judicial College is also offering a scholarship to attend NAHO's conference. The NJC scholarships will cover the entire conference registration fee and all group meals that are a part of the conference. NJC scholarships do not cover travel expenses, lodging expenses or meals that are not provided as a part of the conference. In order to apply for an NJC-sponsored scholarship to attend NAHO's upcoming conference, you must be an alumnus of the National Judicial College in addition to being a member in good standing of 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 listing your NAHO membership number or by providing 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 scholarship, please indicate the title of the last NJC course you completed, the location of the course and the year of completion.

Letters of application must be received by **July 15, 2016** to be considered. Only application letters which provide all of the above information will be considered. Send your letter of application and any supporting information by email to normpaten@comcast.net or by regular mail to:

Norman Patenaude, CALJ
69 Spinnaker Way
Portsmouth, NH 03801