

The Canadian Institute's

# Fundamentals of Administrative Law & Practice

*An In-Depth, Practical Guide for Lawyers, Arbitrators and Tribunal Members*

This is what past attendees  
have to say:

*"A useful refresher  
and update on the  
fundamental principles  
of administrative law."*

*Maureen Helt, Legal Counsel  
Ontario Energy Board (2011 attendee)*

*"Excellent speakers,  
professionally presented."*

*Kevin Mihalcheon, Senior Investigator  
Real Estate Council of Alberta  
(2011 attendee)*

*"I can really apply the  
knowledge gained in my  
day to day activities  
at work."*

*André Régimbald, Director General  
Canadian Nuclear Safety  
Commission (2011 attendee)*

This comprehensive and practical two-day course will give you a solid understanding of the essential legal issues in administrative law, including the latest updates on:

- ◆ Improving practice before administrative tribunals
- ◆ Sources of procedural fairness and the right to be heard
- ◆ Legal status of tribunal rules, policies and guidelines
- ◆ Obtaining, presenting and receiving evidence in administrative proceedings
- ◆ Making tribunal decisions and writing effective reasons
- ◆ And much more!

#### COURSE LEADERS

*Freya J. Kristjanson*  
Partner  
Cavalluzzo Hayes Shilton McIntyre & Cornish LLP

*Jeff G. Cowan*  
Partner  
WeirFoulds LLP

Whether you are new to administrative law or need a comprehensive refresher – this is the course you need to get up to speed quickly!

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# Gain a Solid Understanding of the Key Legal Issues in Administrative Law From Recognized Experts

## Administrative law is one of the most challenging and complex areas of law to master.

Procedural standards can change depending on the situation, and the rules of evidence are completely different from those that govern trials in courts. Anyone involved in this area of the law needs to have a solid grasp of the fundamental issues.

**The Canadian Institute's Fundamentals of Administrative Law & Practice** is a comprehensive two day course, taught by leading experts, which will give you **in-depth, practical, nuts-and-bolts coverage** of administrative law and practice in Canada, including:

- ◆ A comprehensive review of the sources of procedural fairness
- ◆ Overview of the rules of natural justice and procedural fairness
- ◆ Exploring the availability of *Charter* remedies at the tribunal level
- ◆ Dealing effectively with evidentiary issues in administrative proceedings
- ◆ Making tribunal decisions and writing effective reasons
- ◆ Practical tips on improving practice before administrative tribunals

The excellence of our speakers, in terms of experience and the ability to impart valuable information and guidance, is consistently commented on by past attendees of this conference and you will have ample opportunity to **ask them questions** and **to compare notes** with your peers. You will also benefit by receiving **extensive materials** that will prove to be an invaluable resource long after the conference is over.

Places always go quickly, so register today by calling **1-877-927-7936**, or by faxing your registration to **1-877-927-1563**, or online at **[www.CanadianInstitute.com/adminlaw](http://www.CanadianInstitute.com/adminlaw)**.

We look forward to seeing you at the program in April!

## WHO SHOULD ATTEND

- ◆ Members of administrative tribunals (both lawyers and non-lawyers)
- ◆ Tribunal counsel
- ◆ Government lawyers
- ◆ Tribunal and government staff (non-lawyers)
- ◆ Arbitrators
- ◆ Mediators
- ◆ Lawyers in private practice

## DISTINGUISHED FACULTY

### Course Leaders:

#### *Freya J. Kristjanson*

Partner,  
Cavalluzzo Hayes Shilton  
McIntyre & Cornish LLP

#### *Jeff G. Cowan*

Partner  
WeirFoulds LLP

### Speakers:

#### *Christopher D. Bredt*

Partner  
Borden Ladner Gervais LLP

#### *Aaron Dantowitz*

Partner  
Stockwoods LLP

#### *M. Jill Dougherty*

Counsel  
WeirFoulds LLP

#### *David Goodis*

Director of Legal Services  
and General Counsel  
Information & Privacy  
Commissioner of Ontario

#### *Andrew K. Lokan*

Partner  
Paliare Roland Rosenberg  
Rothstein LLP

#### *Leslie M. McIntosh*

Adjunct Professor  
Administrative Law  
Osgoode Hall Law School  
*Former General Counsel, Ministry  
of The Attorney General, Ontario*

#### *Stephen J. Moreau*

Partner  
Cavalluzzo Hayes Shilton  
McIntyre & Cornish LLP

#### *Margot Priest*

President  
Governance and Legislative  
Reform Group

#### *Owen Rees*

Partner  
Stockwoods LLP

#### *Paul Schabas*

Partner  
Blake, Cassels & Graydon LLP

#### *Jennifer A. Smout*

Solicitor  
The Corporation of the City  
of London

#### *Paul B. Sommerville*

Board Member  
Ontario Energy Board

#### *Carolyn Slon*

Legal Counsel  
Ontario Securities Commission

#### *Josée Turcotte*

Deputy Secretary  
and Independent  
Adjudicative Counsel  
Ontario Securities Commission

#### *Andrew Wray*

Pinto Wray James LLP

8:00 **Registration Opens and Coffee Served**

8:45 **Introduction and Overview**

**Freya J. Kristjanson**

Partner

Cavalluzzo Hayes Shilton McIntyre & Cornish LLP

**Jeff G. Cowan**

Partner

Weir Foulds LLP

9:00 **Procedural Fairness: The Right to be Heard**

**Freya J. Kristjanson**

Partner

Cavalluzzo Hayes Shilton McIntyre & Cornish LLP

**Sources of Procedural Fairness**

- The common law duty of fairness
- Statutory procedural requirements
- Constitutional rights

**The Right to Be Heard**

- Notice and discovery
  - Disclosure of evidence
  - Expansion of the scope of the hearing
- The right to state one's case

**The type of hearing: written or oral**

- The right to counsel
- Time to present one's case
- The right to cross-examine witnesses
- Remedies for a breach of the right to be heard

9:45 **The Spectrum of Administrative Decision-Making**

**Leslie M. McIntosh**

Adjunct Professor Administrative Law

Osgoode Hall Law School

Former General Counsel, Ministry of the Attorney General, Ontario

- Overview of the rules of natural justice and procedural fairness
- What decisions are governed by these rules?
- What decisions are "purely ministerial" decisions?
- Adjudicative decisions
- Key cases on whether a decision meets the criteria for application of these rules

10:15 **Networking Refreshment Break**

10:30 **Rules, Policies, Guidelines**

**Josée Turcotte**

Deputy Secretary and Independent

Adjudicative Counsel

Ontario Securities Commission

**Carolyn Slon**

Legal Counsel

Ontario Securities Commission

- Role of the tribunal in promulgating procedural rules
- What kinds of policies and guidelines can a tribunal make?
- Best practices in drafting policies and guidelines
- Legal status of tribunal rules, policies and guidelines
- Most difficult and problematic areas of administrative law
- Special issues re self-represented litigants

11:15 **The Charter and Administrative Proceedings**

**Owen Rees**

Partner

Stockwoods LLP

- The SCC decision in *Conway*: what does it mean for tribunals and section 24(1) *Charter* remedies?
- How to deal with *Charter* arguments before a tribunal
- Availability of *Charter* remedies at the tribunal level
- Reviewing the constitutional validity of the enabling statute: who can do what?
- Can a tribunal review other legislative provisions in light of the *Charter*?
- What should be put on the record in contemplation of judicial review proceedings based on a *Charter* argument?
- Standard of review of *Charter* and constitutional decisions – implications for administrative tribunals

12:00 **Networking Luncheon for Delegates and Speakers**



1:15 **Obtaining, Presenting and Receiving Evidence in Administrative Proceedings**

**Andrew K. Lokan**

Partner

Paliare Roland Rosenberg Rothstein LLP

- Obtaining evidence on behalf of a party other than the tribunal: tips and traps
- When can a tribunal compel witnesses to appear or produce documents?
- A tribunal's right to gather evidence at its own instance

- How far do disclosure requirements go in administrative proceedings? How far can claims of confidentiality be sustained?
- Third party privacy and confidentiality claims
- The centrality of relevance
- Arguing admissibility issues before a tribunal: winning strategies
- Effective use of expert evidence before tribunals
- Application of the “best evidence rule” to administrative proceedings
- Other key issues raised by recent decisions

2:00 **Regulatory Negligence: Update**

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**Stephen J. Moreau**

Partner

Cavalluzzo Hayes Shilton McIntyre & Cornish LLP

- Recent case law
- The limits of statutory immunity clauses
- Policy-making risks
- Investigations and regulatory negligence
- Best practices
- Strategies for reducing exposure

2:45 **Networking Refreshment Break**

3:00 **Improving Practice before Administrative Tribunals**

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**Paul B. Sommerville**

Board Member

Ontario Energy Board

**Jennifer A. Smout**

Solicitor

The Corporation of the City of London

**Margot Priest**

President

Governance and Legislative Reform Group

*Expert advice on the keys to success when appearing before administrative tribunals, and how to avoid making the most common mistakes.*

**Topics covered will include:**

- Running fair and effective hearings
- Dealing with adjournments
- Time limits and other hearing control techniques
- Dealing with different kinds of expert evidence
- Technology and tribunals – the good, the bad and the ugly
- Self-represented litigants – tips for success
- What tribunal members really want from counsel at a hearing

- Writing reasons: tips from tribunal members
- Addressing ethical issues arising in administrative law practice

4:30 **Course Adjourns**

**Day 2 Friday, April 20, 2012**

8:45 **Coffee Served**

9:00 **Course Resumes: Opening Remarks**

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9:15 **Bias and Lack of Independence**

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**Jeff G. Cowan**

Partner

WeirFoulds LLP

- The legal tests for bias and lack of independence
- Common law grounds for alleging bias
- Recent decisions on what constitutes a reasonable apprehension of bias
- Under what circumstances should a possible issue of bias be raised by counsel or by the adjudicator?
- How much detail should be part of the disclosure?
- Who decides the issue of bias?
- When should there be a voluntary withdrawal by the adjudicator?

10:00 **Privacy and Access to Information**

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**David Goodis**

Director of Legal Services and General Counsel  
Information & Privacy Commissioner of Ontario

**Paul Schabas**

Partner

Blake, Cassels & Graydon LLP

- Disclosure, privacy and access: striking the balance
- Recent case law on the application of access and privacy legislation to tribunals
- Third party privacy/access issues
- Tribunal technology and privacy risks
- Access to pleadings and exhibits
- Top tips for lawyers and tribunals

10:45 **Networking Refreshment Break**

11:00 **Making Tribunal Decisions and Writing Effective Reasons**

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**Aaron Dantowitz**

Partner

Stockwoods LLP

- Consultations among decision-makers
- The role of tribunal counsel during deliberations
- Consultations with others
- Burden of proof at a hearing
- Standard of proof
- Evaluating credibility
- Key elements of an administrative law decision
- Duty to give reasons
- What formats for decisions work well and why?
- How much detail should be given in various types of decisions?
- How extensively should the facts be reviewed?
- Do the decision and reasons need to address every argument raised during the proceedings?
- Are boilerplate statements appropriate?
- Reviewing a decision to consider grounds for appeal, reconsideration or review: a checklist
- Are there “appeal-proof” ways to write decisions?

12:15 **Networking Luncheon for Delegates and Speakers** 

1:30 **Penalties**

*M. Jill Dougherty*  
Counsel  
WeirFoulds LLP

- Penalty guidelines
- Interim suspensions/discipline
- General deterrence vs. specific deterrence
- The “public interest” and penalties
- Mitigation: restitution and remorse?
- Alternatives

2:15 **Networking Refreshment Break**

2:30 **Key Administrative Law Issues**

*Christopher D. Bredt*  
Partner  
Borden Ladner Gervais LLP

*Jeff G. Cowan*  
Partner  
WeirFoulds LLP

*Andrew Wray*  
Pinto Wray James LLP

- The standard of review – recent developments
- Differences between judicial review and appeals
- Standing of tribunals on judicial review/appeal
- Exhaustion of alternative remedies and prematurity
- Reasons and judicial review

- Remedies available on judicial review
- Tribunal reconsideration and review
- Recent Supreme Court decisions and Administrative Law

3:45 **Course Concludes Closing Remarks**



This program can be applied towards 9 of the 12 hours of annual Continuing Professional Development (CPD) required by the **Law Society of Upper Canada**. Please note that these CPD hours are not accredited for the New Member Requirement.

This program has been approved by the **Law Society of Saskatchewan** for 11 CPD hours for the conference. Members will also receive 3 additional CPD credit hours for the attendance at the workshop.

The same number of hours may be applied toward your continuing legal education requirements in **British Columbia**.

The **Barreau du Quebec** automatically recognizes the same number of hours for this training activity, the latter having been accredited by another Law Society subject to MCLE.

Attendance at this program by members of the **Law Society of Alberta** may be submitted to the Law Society for Continuing Professional Development credits.



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**Lawyers and non-lawyers alike will leave this course with a solid understanding of the latest and most essential issues in administrative law – knowledge that you will immediately be able to put to use on a daily basis.**

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# Fundamentals of Administrative Law & Practice

*An In-Depth, Practical Guide for Lawyers, Arbitrators and Tribunal Members*

## Top Reasons to Attend

- ✓ Expand your knowledge of the rules of natural justice and procedural fairness
- ✓ Improve your practice before administrative tribunals
- ✓ Understand the remedies available on judicial review
- ✓ Learn best practices for drafting policies, guidelines and reasons

## REGISTRATION FORM

To expedite your registration, please mention your Priority Service Code

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STEP 1

PROGRAM CODE: 361L12-TOR

Call 1-877-927-7936 for Group Pricing Options

YES! Please register the following delegate for the **Fundamentals of Administrative Law & Practice**

FEE PER DELEGATE	Register & Pay by March 22, 2012	Register & Pay after March 22, 2012
<input type="checkbox"/> Course (on site)	\$1895 + 13% HST	\$2095 + 13% HST
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<input type="checkbox"/> I cannot attend, but I would like to purchase the CD-ROM for \$320 + 15.95 (S&H) + applicable taxes		

STEP 2

### CONTACT DETAILS

NAME \_\_\_\_\_ POSITION \_\_\_\_\_

ORGANIZATION \_\_\_\_\_

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CITY \_\_\_\_\_ PROVINCE \_\_\_\_\_ POSTAL CODE \_\_\_\_\_

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TYPE OF BUSINESS \_\_\_\_\_ NO. OF EMPLOYEES \_\_\_\_\_

APPROVING MANAGER \_\_\_\_\_ POSITION \_\_\_\_\_

STEP 3

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I have enclosed my cheque for \$ \_\_\_\_\_ including applicable taxes made payable to **The Canadian Institute** (GST No. 84221 1153 RT0001)

Wire Transfer (\$CAD)

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### ADMINISTRATIVE DETAILS

VENUE: Sutton Place Hotel  
ADDRESS: 955 Bay Street, Toronto, ON.  
TEL.: 416-924-9221

### Hotel Reservations

For information on hotel room availability and reservations, please contact the Sutton Place Hotel at (416) 924-9221 and request the 'Canadian Institute Corporate Rate'. To book online, please go to the Sutton Place Hotel website under reservations and use Corporate ID "STARIN03".

### Registration Fee

The fee includes the program, all program materials, continental breakfasts, lunches and refreshments.

### Program Materials

Program participants will receive a comprehensive set of program materials prepared by the speakers. If you have paid and are unable to attend, these will be shipped to you upon request only. Request must be received within 30 days upon conclusion of the program.

### Payment Policy

Payment must be received in full by the program date to ensure admittance. All discounts will be applied to the Program Only fee (excluding add-ons), cannot be combined with any other offer, and must be paid in full at time of order. Group discounts available to individuals employed by the same organization. **For groups of 4 or more please call 1-877-927-7936 for additional discounts.**

### Cancellation and Refund Policy

You must notify us by email at least 48 hrs in advance if you wish to send a substitute participant. Delegates may not "share" a pass between multiple attendees without prior authorization. If you are unable to find a substitute, please notify **The Canadian Institute** in writing no later than 10 days prior to the program date and a credit voucher will be issued to you for the full amount paid. Credit Vouchers are valid for 1 year and are redeemable against any other program by **The Canadian Institute**. If you prefer, you may request a refund of fees paid less a 25% service charge. No credits or refunds will be given for cancellations received after 10 days prior to the program date. **The Canadian Institute** reserves the right to cancel any program it deems necessary and will, in such event, make a full refund of any registration fee, but will not be responsible for airfare, hotel or other costs incurred by registrants. No liability is assumed by **The Canadian Institute** for changes in program date, content, speakers or venue.