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Chapter 1 : LEGAL GUIDE: ADMINISTRATIVE LAW (ONTARIO)(SPPA): Ch Pre-Hearing Conferences

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The first thing you should do is call If you fear for your safety, you can call the police. If the police are contacted, certain processes and procedures will follow. More Leaving the abuse behind is not a decision to be taken lightly. There are, of course, many factors to be considered. More What happens if I call the police? If police are contacted, they will investigate and determine if there is reason to believe that a criminal offence has occurred. In cases of domestic violence, it is up to police, not the victim, to decide whether or not charges will be laid. More Who can I call if my partner is violent and I need a shelter that will also take my kids? The Victim Support Line is a province-wide, multilingual, toll-free information line providing a range of services to victims of crime. Shelters also provide counselling, support and referrals. What if there is no shelter anywhere near my home? My partner assaulted me. If you have an immediate need for services that you cannot afford, the Victim Quick Response Program can help you with emergency expenses. More The Victim Support Line is a province-wide, multilingual, toll-free information line providing a range of services to victims of crime. More My partner has been charged with domestic violence - what happens now? If charges are laid, your case will be handled by a Domestic Violence Court. These courts have teams of specialists who work to help you and your family get the support you need. They also help to make sure offenders are held responsible for their actions. More I reported domestic violence to the police. Can I have the charges dropped? In Canada, police lay charges and Crown attorneys prosecute them. Crown attorneys will proceed with a case if they believe the charges can be proven. They also consider whether it is in the public interest to do so. While domestic violence is a common charge, it has dangerous consequences. Because of this, Crown attorneys will usually decide that is in the public interest to proceed with the case even if you want the charges dropped. With your permission, the police may call on the Victim Crisis Assistance and Referral Services Program to provide immediate assistance and support to help you deal with the impact of a crime. Services begin once police have laid charges and continue until the court case is over. If you are a victim of violent crime and the police have laid criminal charges, you can be referred to the program by police or Crown attorneys. More Are there programs to help child victims going through the court process? These programs are being expanded to every region of the province. After charges are laid, they provide free services that support and help children through each stage of the court process. This includes accompanying children into the courtroom. Domestic Violence Courts have teams of specialists who work to help you and your family get the support you need.

Chapter 2 : Criminal Law - Ministry of the Attorney General

This definition does not include a municipality or legal entity created solely by a municipality; a legal entity or agency created in whole or in part pursuant to part II of chapter ; a metropolitan planning organization created pursuant to s. The term also includes any denial of a request made under s. An agency head appointed by and serving at the pleasure of an appointing authority remains subject to the direction and supervision of the appointing authority, but actions taken by the agency head as authorized by statute are official acts. A final order includes all materials explicitly adopted in it. The clerk shall indicate the date of filing on the order. A proposed or existing rule is an invalid exercise of delegated legislative authority if any one of the following applies: A rule is arbitrary if it is not supported by logic or the necessary facts; a rule is capricious if it is adopted without thought or reason or is irrational; or f The rule imposes regulatory costs on the regulated person, county, or city which could be reduced by the adoption of less costly alternatives that substantially accomplish the statutory objectives. A grant of rulemaking authority is necessary but not sufficient to allow an agency to adopt a rule; a specific law to be implemented is also required. An agency may adopt only rules that implement or interpret the specific powers and duties granted by the enabling statute. Statutory language granting rulemaking authority or generally describing the powers and functions of an agency shall be construed to extend no further than implementing or interpreting the specific powers and duties conferred by the enabling statute. An agency may by rule authorize limited forms of participation in agency proceedings for persons who are not eligible to become parties. The authorizing resolution shall apply to a specific proceeding and to appeals and ancillary proceedings thereto, and it shall not be required to state the names of the persons whose interests are to be represented. This exclusion applies only to those particular types of disputes or controversies, if any, identified in an interlocal agreement. The term also includes the amendment or repeal of a rule. The term does not include: Statements, memoranda, or instructions to state agencies issued by the Chief Financial Officer or Comptroller as chief fiscal officer of the state and relating or pertaining to claims for payment submitted by state agencies to the Chief Financial Officer or Comptroller. Contractual provisions reached as a result of collective bargaining. Memoranda issued by the Executive Office of the Governor relating to information resources management. Any variance shall conform to the standards for variances outlined in this chapter and in the uniform rules adopted pursuant to s. Any waiver shall conform to the standards for waivers outlined in this chapter and in the uniform rules adopted pursuant to s.

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Chapter 3 : e-Laws | racedaydvl.com

Rule-making hearings: a general statute for Ontario? a report on personal record-keeping by the Ministries and Agencies of the Ontario government / by Michael.

Types of Administrative Agency Action: Rulemaking, Adjudication, Investigation Administrative agencies created by the U. Constitution, Congress, state legislatures, and local lawmaking bodies manage contingencies, redress serious social problems, and manage complex matters of governmental concern. Administrative agency actions can be categorized as one of three types: Rulemaking Administrative agencies use rulemaking process to create, or proclaim regulations. Generally, legislature makes laws based on the policy mandates of the government. However, legislatures frequently find areas where it is impractical for lawmakers to apply a level of detail or expertise required to constitute complete standards. Then the legislatures delegate rulemaking function to administrative agencies. Agencies create detailed regulations through rulemaking. Purposes of rulemaking are to add scientific expertise, implementation details, and industry expertise. When administrative agencies make rules they are to be made flexible, because new data and technology that influence the rules emerge frequently. Hence the agencies actions should be in accordance with its enabling statutes. Adjudication Administrative adjudication is exercise of judicial powers by an administrative agency. Legislative body delegates judicial powers to the agency. Generally, administrative agencies deal with disputes between individuals and government in terms of benefits sought or disabilities incurred from the government action. Agency adjudication is broken down into formal and informal adjudication. Formal adjudication involves a trial-like hearing with witness testimony, a written record and a final decision. However under informal adjudication, decisions are made using inspections, conferences and negotiations. Administrative law judge makes a decision based on reasoned analysis, written findings of fact, and conclusions of law. This decision is subject to appeal to the highest administrative authority of the agency. Administrative fact findings are binding on courts unless not supported by substantial evidence. Generally, judicial review of formal agency adjudication is limited to questions of law. Investigation Administrative agencies have power to conduct investigations. Congress may empower administrative agencies to obtain information on activities which can be regulated by federal legislation. Such legislative delegation of investigative power to administrative agencies is constitutional. Investigations by administrative agencies are proceedings to obtain information to govern future action. In such proceedings, action is not taken against anyone. Usually, the form of investigation depends on the nature of question to be decided. Investigations are held in private so that harmful publicity will not influence the final outcome. Administrative agency can issue subpoena requiring a witness to appear and to testify, and also to produce any books, papers, or other documents relevant to the investigation. An administrative agency is not bound to conduct an investigation under strict rules of evidence required for courts, but generally, basic rules of evidence is followed. Although hearings can be held, it does not form an integral part of investigation. Inside Types of Administrative Agency Action:

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Chapter 4 : LEGAL GUIDE: ADMINISTRATIVE LAW (ONTARIO)(SPPA): Ch - Written and Electronic Hear

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Introduction[edit] Legislatures rely on rulemaking to add more detailed scientific, economic, or industry expertise to a policyâ€”fleshing out the broader mandates of authorizing legislation. For example, typically a legislature would pass a law mandating the establishment of safe drinking water standards, and then assign an agency to develop the list of contaminants and safe levels through rulemaking. The rise of the rulemaking process itself is a matter of political controversy. Many find that obscure and complex rulemaking tends to undercut the democratic ideal of a government that is closely watched by and accountable to its citizens. Purposes[edit] Although executive agencies are usually charged with executing, not promulgating a regulatory scheme, the breadth and depth of regulation today renders it difficult, if not impossible, for legislatures to specify the details of modern regulatory schemes. As a result, the specification of these details are mostly delegated to agencies for rulemaking. Common purposes of rulemaking include: For example, in the U. The act requires that the Department of Health and Human Services promulgate regulations establishing which laboratory tests to use to test the purity of each drug. Clean Air Act and Clean Water Act require the United States Environmental Protection Agency to determine the appropriate emissions control technologies on an industry-by-industry basis. More detailed regulations allow for more nuanced approaches to various conditions than a single legislative standard could. Moreover, regulations tend to be more easily changed as new data or technologies emerge. In some cases, a divided legislature can reach an agreement on a compromise legislative standard, while each side holds out hope that the implementing regulations will be more favorable to its cause. For example, a typical U. Congress passes a law, containing an organic statute that creates a new administrative agency , and that outlines general goals the agency is to pursue through its rulemaking. Similarly, Congress may prescribe such goals and rulemaking duties to a pre-existing agency. Advance Notice of Proposed Rulemaking. Any data or communications regarding the upcoming rule would be made available to the public for review. Occasionally, a board of potentially affected parties is comprised to do give-and-take bargaining over rulemaking subject-matter which would otherwise result in deadlocked opposition by an interested party. Once a proposed rule is published in the Federal Register, a public comment period begins, allowing the public to submit written comments to the agency. Most agencies are required to respond to every issue raised in the comments. Depending on the complexity of the rule, comment periods may last for 30 to even days. Usually, the proposed rule becomes the final rule with some minor modifications. In this step, the agency publishes a full response to issues raised by public comments and an updated analysis and justification for the rule, including an analysis of any new data submitted by the public. In some cases, the agency may publish a second draft proposed rule, especially if the new draft is so different from the proposed rule that it raises new issues that have not been submitted to public comment. This again appears in the Federal Register , and if no further steps are taken by the public or interested parties, is codified into the Code of Federal Regulations. In some cases, members of the public or regulated parties file a lawsuit alleging that the rulemaking is improper. Except in extraordinary circumstances, the rule does not become effective for some time after its initial publication to allow regulated parties to come into compliance. Some rules provide several years for compliance. Not a legal term of art, but describes the kind of rulemaking performed by agencies that is somewhere between formal with a hearing and record and informal with the notice and comment procedures described above. Hybrid rulemaking generally subsumes procedural aspects reserved for adjudication, such as a formal hearing in which interested parties are sworn and subject to cross examination. Natural Resources Defense Council, Inc. In the United States when an agency publishes a final rule generally the rule is effective no less than thirty days after the date of publication in the Federal Register. If the agency wants to make the rule effective sooner, it must cite "good cause" persuasive reasons as to why

this is in the public interest. Significant rules defined by Executive Order and major rules defined by the Small Business Regulatory Enforcement Fairness Act are required to have a 60 day delayed effective date. In the United States , the governing law for federal rulemaking is the Administrative Procedure Act of Separate states often have parallel systems. Commonwealth countries use a mix of common law and similar statute law. Use in private industry[edit] Private rulemaking bodies, such as the Internet Engineering Task Force , Java Community Process , and other technical communities, have adopted similar principles and frameworks to ensure fairness, transparency and thoroughness. While the mechanics vary, these efforts follow the same pattern of an open rulemaking record, public publication of proposals, and an opportunity for public comment on those proposals before they are finalized. Rulemaking apparatus[edit] Public participation requires some official method for the agency to communicate to the public. Generally, agencies produce an official gazette , or periodical for publishing all rulemaking notice, such as the Federal Register. Once a rule is final, the language of the rule itself not the supporting analysis or data is codified in the official body of regulations, such as the Code of Federal Regulations CFR. In essence, the accountability of the rulemaking system assumes that the public actually does take note of all of the notices in the Federal Register, which can run over a hundred pages per day. In practice, many industry or public advocacy lobbyists and lawyers monitor the Federal Register Table of Contents every day by email on behalf of their constituents or clients. The agency rulemaking is usually required to consider and publish a written response to all comments. Although high-profile rulemakings may include public hearings, most rulemakings are simply noticed in the Federal Register with a call for written comments by a set deadline. Holding agencies accountable for objective, fact-based rulemaking requires maintaining a formal record of the facts and analysis behind the rule. Agencies must assemble and make public a rulemaking record that includes all information considered as part of the rulemaking process. These records can be enormous and can easily fill scores to hundreds of boxes. Interested parties generally must travel to an agency repository to inspect and copy this record. In the United States the Federal government is moving toward posting rulemaking dockets on-line at www. Rulemaking and the courts[edit] In the U. Interested parties frequently sue the rulemaking agency, asking the court to order the agency to reconsider. For example, environmental groups may sue, claiming that the rule is too lax on industry; or industry groups may sue, claiming that the rule is too onerous. However, courts do review whether a rulemaking meets the standards for the rulemaking process. The basis of this review by the courts may be limited to certain questions of fairness or the procedures that ensure that both sides of a dispute are treated equally before any decision making occurs or that the decision is not patently unreasonable under Canadian law or Wednesbury unreasonableness under British law or similar doctrines described below. These powers of review of administrative decision, while often governed by statute, were originally developed out of the royal prerogative writs of English law such as the writ of mandamus and the writ of certiorari. Thus, it is not enough to simply claim that the rulemaking agency could have done a better job. A court may intervene if it finds that there is no reasonable way that the agency could have drafted the rule, given the evidence in the rulemaking record. A court may send a rule back to the agency for further analysis, generally leaving the agency to decide whether to change the rule to match the existing record or to amend the record to show how they arrived at the original rule. If a court does remand a rule back to the agency, it almost always involves an additional notice and public comment period. Frequently, opponents of a rule argue that it fails to follow the instructions of the authorizing legislation. Rules can be found to exceed statutory authority if they are too strict or too lax. If a law instructs an agency to issue regulations to ban a chemical, but the agency issues a rule that instead sets levels for safe useâ€”or vice versaâ€”a court may order the agency to issue a new rule. Bolt out of the blue. Occasionally, interested parties argue that the final rule contains provisions that were never vetted during the public comment period. A court may intervene if it finds that there was no way that the commenting public could have anticipated the new provisions and provided comment. Frequently, agencies will vet several options during the proposed rule phase to allow for comment on the full spectrum of rules under consideration.

Chapter 5 : Department of State Lands : Proposed Rulemaking : Laws & Rules : State of Oregon

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For questions or assistance, phone or email to: Please submit questions or comments to: The notice must include the text of the proposed rule, a short explanation of the reason for the proposed rule, a citation to the law that gives the agency the authority to adopt the rule, the proposed effective date of the rule, the date, time, and place of any public hearing schedule on the rule or instructions on how a person may demand a public hearing on a proposed rule if the notice does not schedule a public hearing on the proposed rule, the period of time during which and the person to whom written comments may be submitted on the proposed rule, if a fiscal note has been prepared for the rule, a statement that a copy of the fiscal note can be obtained from the agency, and the procedure by which a person can object to a proposed rule and the requirements for subjecting a proposed rule to the legislative review process. Unless a specific statute provides otherwise, at least 15 days must elapse following publication of the notice in the North Carolina Register before the agency may conduct any public hearing and at least 60 days must elapse before the agency may take action on the proposed rule. An agency may not adopt a rule that differs substantially from the proposed form published as part of the public notice until the adopted version has been published in the North Carolina Register for an additional 60 day comment period. When final action is taken, the adopting agency must file the rule with the Rules Review Commission RRC within 30 days of the adoption. After approval by RRC, the adopted rule becomes effective on the first day of the month following the month the rule is approved by the Commission, unless the Commission receives 10 or more written objections to the rule. If the Commission receives objections from 10 or more persons clearly requesting review by the legislature, the rule is sent to the General Assembly. The rule then becomes effective no earlier than the 31st legislative day of the next regular session of the General Assembly that begins at least 25 days after RRC approves the rule unless a legislative bill is introduced to disapprove that specific rule. If a bill is introduced, the rule becomes effective on the earlier of either the day an unfavorable final action is take on the bill or the day that session adjourns without ratifying the bill to disapprove the rule. A permanent rule disapproved by a bill ratified by the General Assembly before it becomes effective does not become effective and is not entered into the NCAC. Proposed action on rules may be withdrawn by the promulgating agency at any time before final action is taken by the agency. If the Codifier determines that the findings meet the criteria in G. If the Codifier determines that the findings do not meet the criteria, the rule is returned to the agency. The agency may supplement its findings and resubmit the emergency rule for an additional review or the agency may decide that it will remain with its initial position. The Codifier, thereafter, will enter the rule into the NCAC on the 6th business day following notification from the agency. An agency adopting an emergency rule must begin rulemaking procedures on a temporary rule at the same time the emergency rule is filed with Codifier. The emergency rule expires on the earliest of the following dates: Unless otherwise provided by law, at least 30 business days prior to adopting a temporary rule, the agency shall submit the text of the proposed temporary rule and a notice of public hearing to the Codifier of Rules, and the Codifier of Rules shall publish the proposed text and the notice of public hearing on the OAH website. The agency must notify interested parties of its intent to adopt a temporary rule and of the public hearing; accept written comments on the proposed temporary rule for at least 15 business days prior to adoption of the temporary rule; and hold at least one public hearing on the proposed temporary rule. If the Commission or its designee finds that the statement meets the criteria, and the rule meets the standards of review, the Commission or its designee must approve the temporary rule and deliver the rule to the Codifier of Rules and the Codifier of Rules must enter the rule into the North Carolina Administrative Code. If the Commission or its designee finds that the statement does not meet the criteria or that the rule does not meet the review standards, the Commission or its designee will notify the head of the agency. The agency may supplement its statement of need with additional findings or submit a new statement. If an agency decides not

to provide additional findings or submit a new statement, the agency must notify the Commission and the rule is returned to the agency. A temporary rule expires on the earliest of the following dates: The Register typically contains temporary rules entered into the NC Administrative Code, the text of proposed rules, and the text of permanent rules approved by the Rules Review Commission, emergency rules entered into the NCAC, Executive orders of the Governor, an index to published contested case decisions issued by the Office of Administrative Hearings, and other notices required by or affecting Chapter B of the General Statutes. In recent years the General Assembly has mandated other agency documents be published in the Register in order to provide for public notice. Publication of the Register is mandated by G. A print subscription to the Register is available from LexisNexis Matthew Bender and may be ordered directly from LexisNexis by calling , ordering from the online store at www. The Office of Administrative Hearings maintains an email notification list to send notice that a new Register issue is posted on the OAH website and to send any other information the Codifer of Rules determines is helpful to the listserv subscribers. To subscribe or unsubscribe to the NC Register listserv, please use the web form found at the following link: OAH updates this website weekly. The Official North Carolina Administrative Code is available by subscription from ThomsonReuters and may be ordered directly from West Group by calling , ordering from the online store at www.

Chapter 6 : NCOAH - Rules Division - Home Page

Any other statute or regulation relating to the tribunal's power to direct participation in a pre-hearing conference applies despite any smade rules [SPPA s()]. 4. Pre-Hearing Conference Tribunal Member at Hearing.

Overview By far, the majority of tribunal hearings in Ontario are conducted by way of oral hearing. Typical oral hearing conduct and procedure is discussed in Ch. In some circumstances these forms of hearing are useful but as discussed below in my opinion they carry a great potential for the degradation of natural justice when used as a means to achieve administrative "efficiency" or cost-cutting. Written Hearings a Overview A "written hearing" is defined in the SPPA as one held "by means of the exchange of documents, whether in written form or by electronic means" eg. Such rules must be consistent with the following principles: The basis for such exceptions is not made any clearer than this, but logically might include illiteracy of a party, language problems - or, most commonly, the need for the tribunal to make in-person credibility findings, and for other parties to cross-examine witnesses. However where the issue is solely procedural, a party is not entitled to try to avoid a written hearing on this basis [SPPA s. That application was dismissed when the court found that the applicant, despite a strong insistence on his right to an oral hearing, and an obvious desire to cross-examine the doctor, failed to advance any reasons for his insistence. His wanting to cross-examine the doctor the classic reason for an oral hearing was not sufficient reason in this case since such cross-examination before the Board was expressly prohibited by the Health Professions Procedural Code [s. This rule is similar to one applied in civil lawsuits when a party fails to file a Defence. Electronic Hearings a Overview Electronic Hearings An "electronic hearing" is defined in the SPPA as one held "by conference telephone or some other form of electronic technology allowing persons to hear one another". The most common of course are telephone hearings. This is similar to default proceedings in civil lawsuits where a party fails to file a Defence. On failure by any person thus covering both parties and witnesses to obey or comply with such orders or directions, the tribunal may call "for the assistance of any peace officer to enforce the order or direction, and every peace officer so called upon shall take such action as is necessary to enforce the order or direction and may use such force as is reasonably required for that purpose" [SPPA s. Written and Electronic Hearings When a written hearing is to be held, the public is generally entitled to "reasonable access to the documents submitted" [SPPA s. When an electronic hearing is to be held, it shall generally be open to the public unless the tribunal is of the opinion that it is not practical to do so [SPPA s. A tribunal may also vary from these general openness rules if it is of the opinion that [SPPA s. The SPPA is silent on the use of electronic media in tribunal hearings, and general public access to tribunal files it addresses this only re written hearings. If the issue arises, a party may wish to have regard for comparison to specific court rules which address these issues. These are discussed at this Isthatlegal. Comment Where, as is usually the case, a party has a need to call testimonial evidence to establish the credibility of their case, the use of written or telephone hearings in administrative proceedings can result in a serious degradation of natural justice. It is integral to the use of testimony in fact-finding that the adjudicator and all parties are able to view the demeanour and expression of witnesses first-hand, and to test their credibility by cross-examination. Further, while written hearings are justifiable where solely legal issues are in dispute, it is my opinion that the holding of anything short of a full oral hearing in the important areas that modern administrative tribunals govern is a profound degradation of both the rights and the respect accorded parties that must, of necessity, have recourse to these administrative regimes see that discussion in Ch. While convenient from the perspective of the tribunal members and counsel conducting them - ie. That litigant, already starting from a position of unfamiliarity with the law and intimidation of legal process - is now channelled into an adjudication process that strips them of all sensory inputs respecting the process except one: For all the respect and consideration these people are accorded they may as well be at the bottom of a well, arguing with faceless voices in the daylight above to grant them justice.

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Chapter 7 : Rulemaking - Wikipedia

Typical oral hearing conduct and procedure is discussed in Ch.4 "Hearings" under the general Statutory Powers Procedures Act (SPPA) rules (that discussion further references the Small Claims Court procedures for hearings, as oral hearing conduct is so similar to civil trial conduct).

Chapter 8 : Statutes & Constitution :View Statutes : Online Sunshine

See North Carolina General Statutes B-2 Rule: means any agency regulation, standard, or statement of general applicability that implements or interprets an enactment of the General Assembly or Congress or a regulation adopted by a federal agency or that describes the procedure or practice requirements of an agency.

Chapter 9 : Holdings : Rule-making hearings : | York University Libraries

General Services Administration's During the comment period, an agency may also hold public hearings where people can make statements and.