Should Indiana Consider Creating an Office of Administrative Hearings?

October 1, 2004
8:00 AM - 4:00 PM

6 hours of Indiana CLE credit
PROGRAM

8:00 – 8:40  Registration and Continental Breakfast

8:40 – 8:45  Welcome & Opening Remarks
Cynthia Baker  
Director, Program on Law and State Government,  
Indiana University School of Law - Indianapolis

8:45 – 9:35  Morning Speaker
John W. Hardwicke  
Executive Director, National Association of Administrative Law Judges; Former Chief  
Administrative Law Judge, Office of Administrative Hearings, Maryland

9:35 – 9:45  Break: Conour Atrium

9:45 – 10:05  Fellowship Presentation: The Landscape of Administrative Hearings in Indiana
Julie Keen  
Program on Law and State Government Fellow

10:05 – 10:55  Panel Perspectives 1: Creation and Maintenance of an Office of  
Administrative Hearings: State Perspectives
Moderator:  
Julie Keen  
Program on Law and State Government Fellow

Panelists:
Christopher Graham  
President, National Association of Administrative Law Judges; Vice Chair, National  
Conference of the Administrative Law Judiciary of the ABA Judicial Division
Julian Mann  
Chief Administrative Law Judge, Office of Administrative Hearings, North Carolina
Lois F. Oakley  
Chief State Administrative Law Judge, Office of Administrative Hearings, Georgia
Christopher B. McNeil  
Professor of Law, Capital Law School; Administrative Hearing Examiner, Ohio;  
Former Chair of the Administrative Law Committee of the Ohio State Bar Association

10:55 – 11:10  Break: Conour Atrium

11:10 – 12:15  Discussion and Break Out Sessions: Panel 1

12:20 – 1:15  Lunch: Room 259

12:45 – 1:15  Luncheon Speaker: Central Panels and Judicial Review
Justice Frank Sullivan, Jr.  
Indiana Supreme Court
Recognizing that judicial review is an integral component of administrative procedure, Justice Sullivan will reflect on whether a central office of administrative hearings has implications for judicial review in particular and the constitutional distribution of powers among the branches of government in general.

1:15 – 1:20  Break: Conour Atrium
1:20 – 2:10  **Panel Perspectives 2: Fairness, Funding and ALJ Finality**

*Moderator:*
Brian Berg,
*Program on Law and State Government Fellow*

*Panelists:*
Thomas E. Ewing
*Chief Administrative Law Judge, Office of Administrative Hearings, Oregon*
Bruce H. Johnson
*Assistant Chief Administrative Law Judge, Office of Administrative Hearings, Minnesota*
James F. Flanagan
*Professor of Law, University of South Carolina.*
Edward F. Rodgers, II
*Director of the Commercial, Licensing and Regulatory Services Division, Bureau of Hearings, Michigan*

2:10 – 2:25  **Break: Conour Atrium**

2:25 – 3:35  **Discussion and Break Out Sessions: Panel 2**

3:35 – 3:55  **Fellowship Presentation: Policy Choices for Restructuring Indiana’s System of Administrative Hearings: Keeping the Status Quo or Moving toward a Central Panel?**
Brian Berg
*Program on Law and State Government Fellow*

3:55 – 4:00  **Closing Remarks**
Cynthia Baker
*Director, Program on Law and State Government, Indiana University School of Law - Indianapolis*

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**The Program on Law and State Government’s Fellowship Program**

By fostering study and research of critical issues facing state governments, the Program on Law and State Government (PLSG) aims to enrich and broaden the dialogue between state governments and the academic legal community. Students benefit through participation in internships, fellowships and other research initiatives, which in turn assist governments as they confront the realities of the economy, the political pressures of representative democracy, and the changing landscape of federalism. Ultimately, the PLSG serves as a resource for lawyers and aspiring lawyers as they strive to better understand the confluence of law and state governments.

The PLSG Fellowships provide a unique opportunity for law students interested in contributing to the contemporary scholarship of legal issues facing state governments. Awarded annually on a competitive basis, the fellowships enable two students to work with Director Cynthia Baker to explore an issue of the students’ choosing, to host an academic event on that topic, and to co-author an academic paper. This symposium, addressing administrative law and government design, presents the culmination of the ideas, research, and work of the 2004 PLSG Fellows, Julie Keen and Brian Berg. Past fellowship topics include: charter school law, state regulation and funding of elections, and the internet’s impact on state tax systems.
This Program on Law and State Government Fellowship Symposium seeks to enrich and to broaden the dialog surrounding a critical function of state government: how to best maximize judicial fairness and efficiency within the administrative review process.

Almost without exception, Indiana’s administrative agencies not only enforce their own administrative rules but also employ the hearing officers and administrative law judges who adjudicate the disputes arising from such final agency actions such as the issuances of licenses, permit denials and enforcement actions stemming from alleged violations of law. Some states have rejected this model, claiming that such an arrangement creates inherent conflicts of interest for the hearing officers and administrative law judges within those agencies. Several states have adopted a new model removing the reviewing authority from the state agency’s control and placing them in a new, independent office. These independent agencies, typically called Offices of Administrative Hearings (OAH) or central panels, are charged with adjudicating a wide variety of administrative disputes and, as such, are distanced from the influence of the enforcing agency. Currently, twenty-seven states have adopted some variation of the central panel with ten of those states redesigning their respective administrative review structure since 1990.

Why did twenty-seven states adopt this shift in how administrative actions are reviewed? What have these states gained? What have they lost? Most importantly, what can Indiana learn from their experiences? Would Indiana benefit from creating its own OAH? Or, is Indiana’s current administrative adjudicatory structure best serving the needs of Indiana’s citizens? We invite your contribution to the continuing dialog of ideas about state government design with your participation in the upcoming symposium.

"[Americans] have all a lively faith in the perfectibility of man; they judge the diffusion of knowledge must necessarily be advantageous, the consequences of ignorance fatal; they all consider society as a body in a state of improvement, humanity as a changing scene, in which nothing is, or ought to be, permanent; they admit that what appears to them today to be good, may be superseded by something better tomorrow."

~Alexis de Tocqueville, Democracy in America (1835, vol. I; 1840, vol. II)

For more information about the Program on Law and State Government at the IU School of Law-Indianapolis, contact the program’s director, Cynthia Baker at 317-278-2357 or e-mail cabaker@iupui.edu.
www.indylaw.indiana.edu
REGISTRATION

The registration fee of $185 ($155 for state government judges and attorneys) includes continental breakfast, written materials and lunch. Please complete the attached registration form and mail with a check made payable to the IU School of Law-Indianapolis. The symposium will carry 6.0 hours of CLE credit. You must include your attorney number if you wish to receive Indiana CLE credit. If you seek CLE credit in another state, contact that state’s continuing legal education commission. Registrations should be mailed to Lorra Schroeder, IU School of Law-Indianapolis, Program on Law and State Government, 530 West New York Street, Indianapolis, IN 46202. Registrations must be received by September 20th, 2004. Cancellations after Wednesday, September 22, 2004 will not be refunded.

Scholarships based on financial need may be made available. To apply, send a letter outlining academic or professional interest in the subject of Offices of Administrative Hearings and justifying your request for a scholarship to the symposium to Lorra Schroeder, IU School of Law-Indianapolis, Program on Law and State Government, 530 West New York Street, Indianapolis, IN 46202. Requests for scholarships must be received by September 15, 2004. If you have questions regarding the scholarships or the symposium, please contact Lorra Schroeder at 317-274-1914 or by e-mail at lfschroe@iupui.edu.

Pay parking is available in the Sports Complex Garage at 875 W. New York Street.

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REGISTRATION FORM

Name ____________________________

Firm ____________________________

Address ____________________________

City/State/Zip ____________________________

Phone ____________________________

E-mail ____________________________

Attorney # ____________________________

☐ I request a vegetarian meal.

Return completed form, with check for $185 ($155 for state government judges and attorneys) made payable to the IU School of Law-Indianapolis Attn: Lorra Schroeder IU School of Law-Indianapolis Lawrence W. Inlow Hall, 530 West New York Street Indianapolis, IN 46202