

Admissibility Hearings

Course Summary: This course will provide an in-depth discussion of admissibility issues that arise within the context of Canadian immigration. The instructor will review the statutory grounds for inadmissibility and what type of individuals they apply to, as well as what happens when inadmissibility is discovered and the matter is referred to different government agencies. Admissibility hearings at the Immigration Division of the Immigration and Refugee Board of Canada will be discussed in detail, from the moment when the case is being prepared until it is heard. A number of ethical issues will also be addressed during this course, including discovering inadmissibility, assessing the strength of a client's case, preparing the evidence for admissibility hearings and examining witnesses at a hearing.

Course Outline:

1. Statutory basis for examination of admissibility
2. Review of grounds of inadmissibility and to whom they apply
3. How can inadmissibility be discovered?
 - Duty to encourage client honesty in all dealings with the government
 - Honesty and candour
 - Response to illegality
 - Duty of confidentiality
 - Withdrawal from representation
4. Writing the section 44 Report
5. Case law regarding section 44 Reports
6. Referral of the Report for removal order or Admissibility Hearing
7. Understanding the Report and examining the statutory basis
8. Assessing the strength of your case
 - Does your client have a reasonable defence, or is this a foregone conclusion?
 - Honesty and candour
 - Duty of good faith
 - Duty of competence
 - Quality of service
9. The Rules of the Immigration Division

10. Interlocutory matters
11. The hearing - role of the parties
12. Natural justice, procedural fairness and the rights of the client
13. Preparing your evidence – choosing your documents and witnesses
 - Determining what is both relevant and admissible
 - Encouraging honesty in disclosure
 - Duty of good faith
 - Duty of competence
14. Disclosure requirements
 - Timely and well prepared disclosure packages
 - Duty of good faith
 - Duty of competence
 - Quality of service
15. Communicating with Minister's Counsel
 - Importance of professional courtesy
 - Understanding the Minister's role
 - Duty of good faith
16. Communicating with the Immigration Division
 - Importance of professional courtesy
 - Understanding the Division's role
 - Duty of good faith
17. Preparation of your client and witnesses
 - Duty of competence
 - Quality of service
18. Hearing procedures
19. Examining and cross-examining witnesses
 - Importance of pre-hearing preparation
 - Understanding the limits of examination
 - Encouraging honesty in testimony - duty of competence
 - Quality of service
 - Honesty and candour
 - Response to illegality
 - Duty of confidentiality
 - Withdrawal from representation

20. Closing submissions

21. Possible outcomes

22. Important policies and guidelines to know

- Duty of competence

23. Questions and Answers