

Michael Asimow

State Administrative Law Symposium

*The Fourth Reform: Introduction to the Administrative Law Review
Symposium on State Administrative Law*

53 Admin. L. Rev. 395 (2001)

Abstract by Janet C. Goldberg

State administrative law, whether related to government benefits or regulation, has a major impact on many citizens. Many citizens rely on state government benefits such as unemployment compensation and workers compensation. Moreover, regulations control important matters such as who may receive a license to operate a business and certain forms of environmental protection. The essays included in this issue of the *Administrative Law Review* focus solely on state administrative adjudication, as opposed to rulemaking and other agency activities. These articles are “remarkable” for what they do not discuss: three of the most significant reforms in state administrative law.

The first major reform was the development and enactment of model Administrative Procedural Acts. The second major reform was the “due process revolution” (*i.e.*, enhancing the quality of procedures employed in administrative adjudication). This trend toward increased procedural protections has been reversing in recent years. The third major reform focused on the complete separation of an agency’s adjudication function from its rulemaking and law enforcement functions.

Rather than focusing on these three significant reforms in state administrative law, the essays in this issue focus on a fourth reform: emphasis on enhancing ALJ’s professionalization and the placement of administrative law judges (ALJs) into central panels. Efforts to enhance the professionalization of ALJs are crucial to ensuring fair, accurate, and efficient administrative adjudication. Such efforts include hiring the best candidates, providing ALJs with good working conditions and support staff, salaries high enough to ensure retention, and continuous training. The “central panel movement” focuses on ensuring the independence of administrative judges by employing them at an agency that is separate from the agency for which the judges render decisions. This independence is important because “[n]o matter how extensive the system of internal separation of functions many people will never believe that a judge who works for an agency can make a decision that is independent of the wishes of the staff or heads of that agency.”

Efforts over the past few decades to create a federal central panel of ALJs have not been successful, but should continue because of the benefits that central panels can confer. However, the federal central panel should be limited to hearing cases related to disputes over government benefits. Many matters currently decided by federal administrative judges, such as contracting, personnel, and immigration, are not amenable to central panels.