

# Questions and Answers in Administrative Law

**Q — What is the essence of due process in administrative proceedings? Explain.**

**ANS:** In administrative proceedings, due process simply means an opportunity to seek a reconsideration of the order complained of; it cannot be fully equated to due process in its strict jurisprudential sense. A respondent in an administrative case is not entitled to be informed of the preliminary findings and recommendations; he is entitled only to a reasonable opportunity to be heard, and to the administrative decision based on substantial evidence. (*Vealaszquez v. CA*, G.R. No. 150732, August 31, 2004, 437 SCRA 357). Note that it is the administrative order, not the preliminary report, which is the basis of any further remedies the losing party in an administrative case may pursue. (*Viva Footwear Mfg. Corp. v. SEC, et al.*, G.R. No. 163235, April 27, 2005).

## **Exhaustion of administrative remedies.**

The general rule is that before a party may seek the intervention of the court, he should first avail of all the means afforded him by administrative processes. The issues which administrative agencies are authorized to decide should not be summarily taken from them and submitted to a court without first giving such administrative agency the opportunity to dispose of the same after due deliberation.

Corollary to the doctrine of exhaustion of administrative remedies is the doctrine of primary jurisdiction; that is, courts cannot or will not determine a controversy involving a question which is within the jurisdiction of the administrative tribunal prior to the resolution of that question by the administrative tribunal, where the question demands the exercise of sound administrative discretion requiring the special knowledge, experience and services of the administrative tribunal to determine technical and intricate matters of fact.

Nonetheless, the doctrine of exhaustion of administrative remedies and the corollary doctrine of primary jurisdiction, which are based on sound public policy and practical considerations, are not inflexible rules. There are many accepted exceptions, such as: (a) where there is estoppel on the part of the party invoking the doctrine; (b) where the challenged administrative act is patently illegal, amounting to lack of jurisdiction; (c) where there is unreasonable delay or official inaction that will irretrievably prejudice the complainant; (d) where the amount involved is relatively small so as to make the rule impractical and oppressive; (e) where the question involved is purely legal and will ultimately have to be decided by the courts of justice; (f) where judicial intervention is urgent; (g)

# Questions Answers Administrative Law

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Questions & Answers Paul E. McGreal, Linda S. Eads, *LexisNexis Questions and Answers - Administrative Law, 3rd Edition* Jeffrey Wilson Barnes, Roger Neil Douglas, 2015-07-13 This book provides an understanding of administrative law and gives a clear and systematic approach to analysing and answering problem and exam questions Each chapter introduces the topic by commencing with a clear and concise summary of the relevant law and key issues For each topic there are sample essay questions as well as legal problems to answer Each question is followed by a suggested answer plan a sample answer and comments on how the answer might be assessed by an examiner The authors also offer an insight into the common errors to avoid when answering each question The book highlights many of the skills commonly employed in administrative law o e skills used in essay writing case analysis interpreting and analysing legislation and problem solving LexisNexis Questions and Answers o e Administrative Law covers the following topics administrative rule making limitations on government action and judicial review other avenues of accountability access to information and evaluating review mechanisms Features o eo Summary of key issues in each chapter o eo Questions with answer guide suggested answer examiners comments and common errors to avoid o eo Chapter of hypothetical fact situations incorporating multiple administrative issues o eo Helps students revise key areas before attempting problem questions o eo Assists students with effective exam study preparation o eo Enables students to practice applying their knowledge to hypothetical problems Related Titles Creyke McMillan Smyth Control of Government Action o e Text Cases Commentary 4th ed 2016 Douglas Hyland Focus o e Administrative Law 3rd ed 2014 Howe Evans LexisNexis Study Guide o e Administrative Law 2nd ed 2015

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