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NATURAL JUSTICE IN CANADIAN EDUCATION

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ABSTRACT

Despite the complicated nature of the subject, courts in Canada have been generous in determining the relationships that should be governed by the principles of natural justice - particularly the duty to act fairly - under administrative law.[1] Similarly the courts, although admitting that difficulties abound in this area, also, have given liberal, rather than literal, interpretation in relation to the extent to which a body must be public or statutory before relief can be granted by way of the prerogative remedies, especially certiorari.[2] These principles of natural justice have been applied not only to Canadian education, but also to education, helping the development and clarification of some fundamental concepts in canadian administrative law.[3] This article examines such developments in the employer - employee situation in the canadian educational institutions.

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[1] See Jones & Villars, Principles of Administrative Law; Dussault & Borgeat, Administrative Law: A Treatise Volume 4; Reid & David, Administrative Law and Practice; De Smith, Judicial Review of Administrative Action; Wade, Administrative Law.

[2] However, where the enactment dealing with a university provides for an appropriate and summary recourse, eg an internal appeal, the courts will examine all the issues very carefully and may be reluctant or hesitant to grant prerogative relief; for example the Ontario Court of Appeal, in Re Paine and University of Toronto et al (1981) 131 D.L.R. (3d) 325 said:

> The Court should use restraint and be slow to intervene in university affairs by means of discretionary writs whenever it is possible for the university to correct its errors within its own institutional means.

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