

# THE OSGOODE ADVANCED CERTIFICATE IN WORKPLACE INVESTIGATIONS

February 23 & 24, and March 3 & 4, 2021  
Online - Live, interactive

This unique, advanced level program will take your workplace investigation skills to a new level by simulating investigations so you **learn-by-doing**.

Over 4 intensive online modules, you will:

- Create plans for managing complex workplace investigations, including allegations of racism, systemic racism, prejudice and bias
- Conduct a mock investigation using a trauma informed approach
- Learn - and practice - strategies to mitigate bias
- Analyze the difference between credibility, findings of fact and findings of law
- Refine report writing skills through practical drafting exercises

Register today at:

[osgoodepd.ca/adv-work](https://osgoodepd.ca/adv-work)

## Program Director

Lauren Bernardi  
Bernardi Human Resource Law

## Format

ONLINE - Live, Interactive



# The Osgoode Advanced Certificate in Workplace Investigations

*Don't miss the hands-on practical exercises, where participants will be involved in interview simulations in some of the most challenging scenarios in investigations work. This is an unparalleled opportunity to improve your skills.*

Workplace investigations are under scrutiny like never before, having been thrust into the spotlight by the **#MeToo, Black Lives Matter** and similar movements. Investigations are now often **conducted remotely**, adding complexity to considerations of fairness. Now, more than ever, it's important to have **more than basic knowledge** and **skills** to carry out fair and effective investigations.

Over 4 intensive online modules, you will “learn by doing” with lectures, group discussions, breakouts and **simulated workplace investigation interviews**. You will conduct interviews and receive constructive, practical feedback from trained facilitators, enabling you to sharpen your skills.

Taught by leading experts who have years of experience, you will learn how to plan the investigation, carry out effective interviews in the most challenging circumstances, and write clear and convincing reports.

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adv-work](https://osgoodepd.ca/adv-work)

**Space is strictly limited to ensure a completely interactive and practical experience.**



## Topics Include

- Investigating Workplace Violations – Advanced Concepts and Terminology
- Understanding and Investigating Complaints of Workplace Harassment, Sexual Harassment and Sexual Assault
- Managing Trauma Informed Workplace Investigations
- Identifying and Mitigating Implicit Bias
- Tactics for Investigating Allegations of Racism, Systemic Racism, Prejudice and Bias in the Workplace
- Strategies when Investigating Complicated Allegations of Workplace Bullying
- Ensuring Procedural Fairness
- The New Normal: Effective Strategies for Conducting Effective Workplace Investigations Remotely
- Tips for Writing Compelling Reports – What Works? What Doesn't?

## Who Should Attend

- Human Resources Professionals
- Employment and Labour Lawyers
- Workplace Investigators
- Trade Union Representatives
- Workplace Consultants/Educators

This annual program is intended for more experienced human resources professionals/practitioners who have conducted 10 or more workplace investigations **OR** have already completed a recognized training course\* focused on workplace investigations.

*\* For example, the Workplace Investigations Certificate Program offered by the HRP*

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Taught by leading experts with years of experience who will guide you through some of the most challenging scenarios in workplace investigations

## Program Director



### Lauren Bernardi

Bernardi Human Resource Law

Lauren Bernardi is a highly respected leader in the field of workplace respect, harassment and violence.

As an investigator, Lauren has been retained to conduct investigations into a wide variety of issues including sexual harassment, sexual assault, psychological harassment/bullying, poisoned work environments and allegations of discrimination on the basis of race, religion, sexual orientation, gender identity and family status.

Lauren has been a champion of respectful workplaces from the outset of her career. Highlights include:

- Developing and teaching the three-day HRP (Human Resources Professionals Association) *Workplace Investigations Training and Certificate Program*, offered monthly
- Co-chairing the annual four-day Osgoode Professional Development *Certificate Program in Workplace Mental Health Law*
- Developing and co-chairing the Law Society of Ontario's program: *Workplace Investigations: A Comprehensive Look at Emerging Issues and Practical Solutions*

Lauren's expertise has been quoted in the Toronto Star, the Globe and Mail and the National Post. She is a frequent guest expert on CBC Radio's Ontario Today program.

## Advisory Board



### Dean Benard

CEO, Benard & Associates



### Kenda Murphy

Kenda's Law



### Emma Phillips

Goldblatt Partners



### Hena Singh

Singh Investigations & Mediations;  
Singh Lamarche LLP

## Program Faculty

### Sarah Atkinson

Lawyer, Workplace Investigator, Mediator, Trainer at Self

### Dean Benard

CEO, Benard & Associates

### Lauren Bernardi

Bernardi Human Resource Law

### Kim Bernhardt

Arbitration and Mediation

### Mihad Fahmy

Mihad Fahmy Law

### Michelle Flaherty

Arbitrator, Mediator, Workplace Investigator and Vice Chair, Human Rights Tribunal of Ontario

### Arleen Huggins LSM

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Director, Human Rights and Dispute Resolution, Equality and Inclusion Office, McMaster University

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Kenda's Law

### Emma Phillips

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### Alison Renton

Bernardi Human Resource Law

### Hena Singh

Singh Investigations & Mediations;  
Singh Lamarche LLP

### Jennifer Wootton

Workplace Investigation Lawyer -  
Optimal Resolution™

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# Agenda

## DAY 1

February 23, 2021  
9:00 a.m. – 4:00 p.m.

### Investigating Workplace Violations: Advanced Concepts and Terminology

- Breaking down the definition of harassment – the tricky situations including what is a “workplace” and what does “vexatious” mean?
- Are there legal differences when assessing whether there has been harassment under the *Occupational Health and Safety Act* and the *Human Rights Code*?
- Discrimination and harassment – applying the correct legal principles
- Poisoned work environments – what are the elements of the test?
- What constitutes a reprisal and when should reprisal allegations be included in an investigation? When should they be investigated separately?

#### Understanding and Investigating Complicated Allegations of Workplace Bullying

- Addressing complicated bullying allegations, including historical allegations
- How to identify and investigate workplace mobbing

#### Understanding and Investigating Complaints of Sexual and Gender-Based Harassment and Sexual Violence

- Why are complaints of sexual harassment and sexual violence especially challenging?
- Understanding the psychology around sexual harassment and sexual violence
- Legal definitions under *Occupational Health and Safety Act* and *Ontario Human Rights Code*

- Understanding cultural differences and their impact in the context of responding to sexually harassing behaviours

## Faculty

### Lauren Bernardi

Bernardi Human Resource Law

### Arleen Huggins LSM

Koskie Minsky LLP

### Hena Singh

Singh Investigations & Mediations;  
Singh Lamarche LLP

## DAY 2

February 24, 2021  
9:00 a.m. – 5:00 p.m.

### Investigating Allegations of Racism, Systemic Racism, Prejudice and Bias in the Workplace

- Establishing systemic racism – what type of evidence is required?
- Identifying/defining microaggressions
- Examples of systemic discrimination and harassment, stereotyping and racial profiling in the workplace

#### Practical Exercises (Case Study Scenario)

*In this session you will conduct part of an investigative interview with trained experts/facilitators and receive individualized feedback*

*NOTE: simulations/exercises will not be captured.*

#### Trauma Informed Workplace Investigations

- Defining trauma and recognizing the forms of trauma
- The impact of trauma on the investigation
- Conducting your interviews with a trauma informed approach

- Assessing credibility where there is trauma

## Faculty

### Lauren Bernardi

Bernardi Human Resource Law

### Mihad Fahmy

Mihad Fahmy Law

### Inna Koldorf

Miller Thomson LLP

### Pilar Michaud

Director, Human Rights and Dispute Resolution, Equality and Inclusion Office, McMaster University

## DAY 3

March 3, 2021  
9:00 a.m. – 4:00 p.m.

### Ensuring Procedural Fairness

Ensuring procedural fairness is key to conducting a workplace investigation but determining what is “appropriate in the circumstances” as prescribed in the *Occupational Health and Safety Act* often presents challenges. Best practices for creating a procedurally fair workplace investigation will be covered including:

#### The Process

- The Ministry of Labour’s Code of Practice to address Workplace Harassment under *Ontario’s Occupational Health and Safety Act* – how to meet or exceed the provisions when conducting an investigation. What is the impact of demonstrating adherence to the Code?
- Who decides on the process – the investigator, the retaining client or both?
- What is the difference between a workplace culture audit and an investigation?
- What are you legally required to do and what amounts to best practice?

- Internal vs external investigations
- Passing the threshold test – is it a prima facie violation of a policy or violation of law?
- Dealing with challenging requests from counsel, support people and the witnesses themselves

### Interviews

- Selecting witnesses – do you need to meet with everyone who is named by a party and if not, what is the basis for selecting witnesses?
- How much information do you need to give in advance of the investigation interview?
- How to structure a summary of allegations

### Timeliness and Handling Delays

- Dealing with timelines and delays, and clients' expectations
- At what point do you stop the investigation?

### Completing or Expanding the Investigation

- What should you do when a respondent, in response to a complaint, brings forward allegations of his/her own? Should those respondent allegations be attached to the issue in the main investigation or constitute something else entirely which would require its own investigation?
- How to know when your investigation is done

### Practical Exercises (Case Study Scenario)

*In this session you will conduct part of an investigative interview with trained experts/facilitators and receive individualized feedback.*

*NOTE: simulations/exercises will not be captured.*

### The New Normal: Effective Strategies for Conducting Effective Workplace Investigations Remotely

- Accessing materials and individuals remotely – what are the key challenges and the best practices to overcome them?
- Assessing credibility when in-person interviews are not possible
- Using technology effectively when interviewing
- The challenges of having parties provide/explain documentation remotely
- Data preservation/collection
- Addressing privacy concerns
- Coordinating report writing

## Faculty

### Dean Benard

CEO, Benard & Associates

### Michelle Flaherty

Arbitrator, Mediator, Workplace Investigator and Vice Chair, Human Rights Tribunal of Ontario

### Emma Phillips

Goldblatt Partners

### Alison Renton

Bernardi Human Resource Law

### DAY 4

March 4, 2021

9:00 a.m. – 4:30 p.m.

### Implicit Bias/ Writing Compelling Reports

- The impact of biases on an investigation including biases of witnesses and biases of the investigator
- Recognizing the signs of implicit bias
- Strategies and tools to mitigate investigator bias

### Making Findings

- Credibility assessments – how are they utilized? What are the challenges around credibility assessments?
- What are the differences between credibility, findings of fact and findings of law – analyzing the differences
- Assessing behaviour in the context of workplace policies – even if it doesn't meet the legal threshold, is it still a policy violation?

### Writing Compelling Reports

- The good, the bad, and the in-between – examples of best practices ... and those that fail to achieve the necessary standards expected of an effective workplace investigation report
- The different styles and types of reports
- Cost sensitive reports for small organizations
- Distilling large amounts of information into a manageable and readable report
- Practical drafting exercises + individualized feedback

*NOTE: simulations/exercises will not be captured.*

## Faculty

### Sarah Atkinson

Lawyer, Workplace Investigator, Mediator, Trainer at Self

### Kim Bernhardt

Arbitration and Mediation

### Kenda Murphy

Kenda's Law

### Jennifer Wootton

Workplace Investigation Lawyer – Optimal Resolution™

# Registration Details

## Fee per Delegate

**\$2,995 plus HST**

**Newly Licensed (2018 - Present): \$1,497.50 plus HST**

Fees include online attendance and electronic copies of materials. Participants will have access to the archived sessions of this program for 120 days from the date of completion.

**Live attendance is required for the practical exercises – February 24, 2021 from 12:30 p.m. to 2:30 p.m. EST and March 3, 2021 from 12:45 p.m. to 2:45 p.m. EST. Please note simulations/practical exercises are not captured or archived.**

Group discounts are available. Visit [www.osgoodepd.ca/financial-assistance](http://www.osgoodepd.ca/financial-assistance) for details about financial assistance.

## Program Changes

We will make every effort to present the program as advertised, but it may be necessary to change the date, location, speakers or content with little or no notice. In the event of program cancellation, York University's and Osgoode Hall Law School's liability is limited to reimbursement of paid fees.

## Cancellations and Substitutions

Substitution of registrants is permitted at any time. If you are unable to find a substitute, a full refund is available if a cancellation request is received in writing 21 days prior to the program date. If a cancellation request is made with less than 21 days notice, a \$150 administration fee will apply. No other refund is available.

## For Further Program-Related Information, Please Contact:

David Thomas at 416 270 7316 or email [dthomas@osgoode.yorku.ca](mailto:dthomas@osgoode.yorku.ca)

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## Certificate of Program Completion

You will receive a certificate upon completion of the **Advanced Certificate in Workplace Investigations**. Participants must view all program modules and participate in the Practical Exercises on Day 2 and Day 3 to receive a certificate.

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## 4 Convenient Ways to Register



Mail



Online



Fax



Call

**Register today at:**

[osgoodepd.ca/adv-work](http://osgoodepd.ca/adv-work)



OsgoodePD has been approved as an Accredited Provider of Professionalism Content by the LSO.

Eligible CPD Hours – LSO (ON): 25h 30m (21h Substantive; 30m Professionalism; 4h EDI)



OsgoodePD programs may be eligible for CPD/MCLE credits in other Canadian and US jurisdictions. To inquire about credit eligibility, please contact [cpd@osgoode.yorku.ca](mailto:cpd@osgoode.yorku.ca).



This program has been approved for 24 continuing professional development (CPD) hours under Section A3 of the Continuing Professional Development (CPD) log of the Human Resources Professionals Association (HRPA)

