

CONTENTS

EDITORIAL PREFACE	ix
ACKNOWLEDGMENTS	xi
LIST OF ABBREVIATIONS	xiii
1. INTRODUCTION	1
Procedural Contexts	2
Some Distinctions	3
A Normative Method	9
The Adversary Adjudication Model	13
PART I: TRADITIONAL PRINCIPLES	
2. IMPARTIALITY	19
Interest, Bias, and Necessity	21
Independence	29
Ex Parte Communications	35
Summary	37
3. OPPORTUNITY TO BE HEARD	39
An Open Hearing	42
Timeliness and Notice	43
Presentation of Evidence	47
Counsel	53
The Record	55
Appeals	57
Summary	59
4. GROUNDS FOR DECISIONS	61
Discretion	62
The Requirement of Standards	66
Findings and Reasons	72
Burden of Proof	78
Judicial Review	80
Summary	84

5. FORMAL JUSTICE	87
Consistency	91
Adherence to Precedents	98
Conformity to Rules	104
Summary	110
PART II: THEORY	
6. A THEORETICAL JUSTIFICATION	115
Economic Costs	117
Moral Costs	120
Process Benefits	127
Justification of Basic Principles	135
Summary	138
7. THE LIMITS OF LAW	141
State Action	144
Deprivations	147
Importance	153
Special Standards	156
Alternative Protections	159
Summary	161
8. ALTERNATIVE DECISION-MAKING MODELS	163
The Limits of Adversary Adjudication	163
Alternative Models	168
Choice of Models	179
Summary	187
PART III: APPLICATIONS	
9. PROFESSIONAL DISCIPLINE	193
Law and Adjudication	195
Impartiality	199
Opportunity to Be Heard	201
Findings, Reasons, and Formal Justice	209
Summary	212

CONTENTS

vii

10. EMPLOYMENT DECISIONS	215
Hiring	215
Merit and Promotion	222
Discipline and Demotion	227
Termination	232
Summary	237
WORKS CITED	241
TABLE OF CASES	250
INDEX	252