



Inside Oversight: Levin Center at Wayne Law Tutorials

SERIES 3 HOLDING A HEARING

Tutorial: Structuring a Hearing

In this video, Levin Center experts offer tips and advice on how to structure a Congressional hearing.

Instructors

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Transcript

Zack: Hi. I'm Zack Schram and this is Elise Bean, and we're here to share with you some tips we've learned over the years on how to structure a Congressional hearing. Both of us conducted oversight investigations for Senator Carl Levin on the Permanent Subcommittee on Investigations in the U.S. Senate.

Elise: Hearings provide a powerful platform for disclosing your investigation, explaining problems, and building the case for reform. Here are a few tips to help you design a compelling and informative hearing.

Develop a key message and decide on the tone

Zack: Tip Number One: When structuring your hearing, think first about the key message and tone you want to convey. A good exercise is to state the hearing message in a single sentence – one that you can provide to your boss, other offices, and the media. A concise hearing statement will help you focus on your key message. Next, think about the hearing tone. Consider whether the hearing is

intended to disclose your investigative results or be part of the fact-finding process. Whether it will be a stand-alone hearing or part of a series. Whether it will delve into technical issues or showcase dramatic facts. One key element in setting the tone is bipartisanship. Hearings held on a bipartisan basis are usually viewed as more credible and serious. If a bipartisan approach isn't possible, next best is to structure the hearing with as nonpartisan a tone as possible, focusing on the facts.

Focus the hearing on facts and problems, not solutions

Elise: Tip Number Two: Structure the hearing to focus primarily on facts and problems, not solutions. Investigative hearings are valued, because they uncover the facts behind complex problems or controversies. In this era of fake news and divergent viewpoints, hearings that present factual information in an accurate, credible way perform a critical role. They provide a solid factual foundation for developing a shared understanding of a problem, and set the stage for reforms. Skipping the problem and going right to solutions puts the cart before the horse, risks losing the audience, and may fail to build support for change. A good rule of thumb is to spend 80% of the hearing on the problem and only 20% on possible solutions.

Consider how to tell a story

Zack: Tip Number Three: Consider how to structure the hearing to tell a story. Viewers understand, like, and remember stories, so think about the hearing as both theater and story-telling. One key is figuring out who can provide the facts. It might be a victim who recounts a personal experience, an expert who provides an overview, a wrongdoer forced to describe what happened, or some combination. Your boss can help shape the story with an opening statement that lays out the facts, frames the issues, and provides a larger context. Other tools are hearing charts, exhibits, and written products like a report. Press releases provide still another opportunity to lay out the hearing's story.

Set the time frame and number of panels

Elise: Tip Number Four: Set the expected time frame and number of panels for the hearing. In terms of the time frame, consider whether the hearing will last one day or longer and, if more than one day, how far apart the hearing days should be. Also consider how much time is available for each hearing. Hearings can last two hours, five hours, or longer. Senator Levin's record was an 11-hour marathon, but that wasn't planned. When deciding on the available time for a hearing, be sure to check your boss' preference.

Zack: As for the number of panels, some hearings use just one panel; others have as many as four. Fewer panels save time and encourage dialogue, but can also

compress or confuse the facts. More panels take longer, but make it easier to cover more ground and focus on particular issues or entities. The hearing's overall length will also limit how many panels can testify.

Elise: Another factor to consider is whether the hearing is in the morning or afternoon. Morning hearings usually attract more press, but afternoon hearings are easier to execute since you can use the morning to prepare. Still another factor is scheduling around any competing hearings, floor votes, or other events.

Begin with a good witness

Zack: Tip Number Five: Begin the hearing with a good witness. Many viewers will decide on the basis of the first witness whether to watch the rest of the hearing, so you want a good start. Try to ensure the first witness is well spoken and has interesting testimony. A victim can tell what happened; an expert can provide a dramatic overview; a wrongdoer can set up an initial confrontation. But a witness who drones on and puts everyone to sleep is not a good way to begin.

Consider which witnesses will appear together

Elise: Tip Number Six: In designing the witness panels, think about who will appear with whom. Agency officials normally won't appear with private sector witnesses and often insist on testifying alone on the first panel. While it's traditional to give deference to a high-ranking official, such as a Department Secretary, lower-ranking officials can be required to appear later in a hearing and respond to earlier testimony. One way to accommodate a Department Secretary is to schedule one hearing day to lay out the facts, and invite the Secretary to appear alone on the second day.

Zack: Another set of issues applies to private sector witnesses. It is common for private sector witnesses to object to sitting on the same panel as someone who is under investigation or indictment. But as we often explained to their legal counsel, sitting next to a notorious wrongdoer means the spotlight will shine more on that witness than the person sitting nearby. Concerns about guilt by association are counterbalanced by the benefits of exoneration by comparison.

Don't stack the deck

Elise: Tip Number Seven: Don't stack the deck. Washington has seen thousands of hearings, and is always on the alert for hearings that use witnesses to present a single point of view. Stacking the deck breeds cynicism and distrust of the hearing results. In contrast, a hearing that presents multiple viewpoints is not only inherently more interesting, but encourages respect for the committee and its work.

Get feedback and final signoff

Zack: One last tip: When designing a hearing, write up several hearing alternatives and show them to your investigative team and supervisor for feedback. Share the winning alternative with your counterparts across the aisle to get their reactions and suggestions. While the Minority party is often guaranteed one witness by committee rules, a better approach is to talk about all the potential witnesses. The final step is to meet with your boss, present the preferred hearing format, discuss what the other party thinks of it, and get a final decision.

Structuring a Hearing

- 1. Develop a key message, and decide on the tone.**
- 2. Focus the hearing on facts and problems, not solutions.**
- 3. Consider how to tell a story.**
- 4. Set the time frame and number of panels.**
- 5. Begin with a good witness.**
- 6. Consider which witnesses will appear together.**
- 7. Don't stack the deck.**
- 8. Get feedback and final signoff.**

Elise: To help you design your hearing, the Levin Center has put together some sample hearing formats that you can download, use, and improve.

For sample hearing templates, see:

law.wayne.edu/hearingformats

Zack: Structuring a good hearing requires balancing multiple factors. We hope these tips will help you structure hearings that are interesting and useful.

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