



# **Inside Oversight: Levin Center at Wayne Law Tutorials**

## **SERIES 3 HOLDING A HEARING**

### **Tutorial: Using a Hearing to Effect Change**

In this video, Levin Center experts offer tips and advice on how to set up, structure, and time a Congressional hearing to encourage reforms.

#### **Instructors**

Elise Bean, Former Staff Director and Chief Counsel  
Zack Schram, Former Senior Counsel, U.S. Senate Permanent  
Subcommittee on Investigations

#### **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 use a hearing in a Congressional oversight investigation to effect change. Both of us conducted oversight inquiries for Senator Carl Levin on the Permanent Subcommittee on Investigations in the U.S. Senate.

Elise: Most of our investigations included, at some point, a Subcommittee hearing. Hearings take a lot of time and effort, so we worked hard to make sure each hearing made a difference. Hearings can be a powerful change agent to drive reforms and fix problems. In this segment, we'd like to offer you some tips on how to use a hearing to effect change.

### **Hold the hearing later**

Zack: Tip Number One: If you want to use a hearing to effect change, don't schedule it too quickly. Some Members of Congress like to hold a hearing a few days after a problem hits the news. While a quick hearing draws attention to the problem, it happens too fast to produce reforms needed to fix the problem. A hearing held later can be much more effective in producing change. In fact, we liked to give the subjects of our investigations 4 to 6 weeks prior notice of a hearing. Human nature being what it is, most spent the time putting reforms into place so they could announce them at the hearing. From our point of view that was the perfect oversight result – we still laid out the problem, but also discussed measures to fix it. The reforms served as a tacit admission that the problem was real and needed to be addressed.

### **Create bipartisan hearing elements**

Elise: Tip Number Two: Hearings are more effective in producing change when they have at least some elements of bipartisanship. When a bipartisan report is released in connection with a hearing, or when the Chair and Ranking Minority Member give opening statements with similar descriptions of the problem, other Members, the media, the public, and the hearing subjects all take notice and take the issue more seriously. Bipartisan hearings – even where some disagreements remain – send a powerful message that common ground exists, and progress can be made. Possible bipartisan hearing elements include a joint report or joint press release; transcripts from joint interviews; a joint witness list or joint experts; a joint letter to a key agency or party; or agreement on some elements of reform, even if minor. Be creative. A bipartisan hearing is a powerful change agent.

### **Describe the problem**

Zack: Tip Number Three: Hearings are more effective in producing change when they focus on describing the problem that needs to be fixed. Hearings that go into the details of what happened help educate Members of Congress, other policymakers, the media, and the public about the nature of the problem and the need for reforms. Detailing the problem builds momentum for change and may even generate consensus on some of the reforms. Skipping the problem and going right to a discussion of possible solutions puts the cart before the horse and may fail to generate support for any of the changes needed.

### **Include key decision makers**

Elise: Tip Number Four: Hearings are more effective in producing change when the witnesses include senior decision makers who can approve needed reforms. When senior decision makers are required to appear at a hearing, they dig into the

facts, and they examine possible reforms more thoroughly, and they approve changes more quickly than when a subordinate testifies. Senior decision makers, including agency heads and CEOs, may even want to announce reforms at the hearing. Less senior personnel simply don't have the authority to initiate or make commitments to undertaking significant reforms.

### **Telegraph realistic, short-term reforms before the hearing**

Zack: Tip Number Five: A hearing may be more effective in producing change if Congressional staff can telegraph some realistic, short-term reforms that could be put in place by the time of the hearing. Since the hearing subjects will be looking for ways to placate Members of Congress attending the hearing, Congressional staff can help by suggesting some acceptable, non-legislative actions or signaling support for changes already being considered. Alternatives include announcing policy changes, taking personnel actions, offering remedies for victims, making an apology, undertaking program reviews, or committing to more sweeping reforms. Getting those types of short-term changes in place by the date of the hearing may not only reduce the problem, but also set the stage for larger reforms.

### **Get hearing commitments and follow up**

Elise: Tip Number Six: Hearings are more effective in producing change when, during the hearing, Members of Congress obtain explicit commitments from key parties to undertake reforms. During the hearing, Members should ask witnesses to make a public commitment to take one or more specified actions, and commit to working with Congressional staff to monitor promised changes. After the hearing, the Committee or Subcommittee should send a letter – hopefully bipartisan – to each witness memorializing the commitments made during the hearing. Congressional staff should then set up quarterly meetings with key actors to track the actions undertaken until the reforms are completed. Following up on commitments made during public hearings is one of the best and quickest ways for a hearing to cause change.

## **How to Use Hearings to Effect Change**

- 1. Hold the hearing later rather than sooner.**
- 2. Make the hearing as bipartisan as possible.**
- 3. Describe the problem during the hearing.**
- 4. Include key decision makers as hearing witnesses.**
- 5. Telegraph realistic, short-term reforms before the hearing.**
- 6. Get hearing commitments and follow up on them.**

Zack: Hearings, when well designed, can drive change by encouraging witnesses to get reforms in place by the hearing date. We hope these tips will help you design hearings that produce meaningful change.

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