

## The Essence of Congressional Hearings

### Inside the Congressional Hearings Process: Not Sexy Perhaps, But Necessary

At this time of the year, Congress and its committees are in the midst of, or concluding, hearings on numerous topics, bills, and budget considerations. Authorization, budget, appropriations and oversight hearings abound on every conceivable subject. Later this month, the Senate Judiciary Committee will hold hearings to consider the President's nomination of Solicitor General Elena Kagan to be an Associate Justice on the U.S. Supreme Court.

On the other side of the witness table, company executives, association leaders, heads of non-profits, government officials, and presidential nominees alike are preparing for the experience of testifying before a congressional committee, an exercise likened by some to having a root canal. Recently we've seen automobile executives, energy company officials, financial industry representatives, and even White House party crashers take their turn to testify in front of congressional committees, with very mixed results and reactions. One need only consult policy periodicals or committee web sites for a schedule of the seemingly never-ending stream of congressional hearings that typically commence in February each year and run heavily through early summer.

While appearing as somewhat of a boring institutional practice on the surface, a committee hearing is an especially important initial staging ground in the development of legislation. Members of a committee not only become educated about an issue, they also begin formulating their own policy positions and sharpening their political views on an issue, an important dynamic necessary for further congressional consideration of an issue. Just consider the results of information brought to bear this year already during hearings on issues such as health care and the regulation of the financial industry.

Although not a requirement, most important issues do receive a full vetting through the hearings process. In fact, when a measure or amendment has not been the subject of a hearing, a typical ploy of its opponents, both in committee and on the floor, is to argue that the issue should not proceed or be approved *because* it was not considered in the hearings process. Thus, the congressional hearing is critical in most cases to the success of a committee as it shepherds a measure through the maze of the legislative process, and particularly as it lays the foundation for the committee's decision-making regarding the development of sound public policy.

From the congressional perspective, a committee is undertaking a form of research and is making a record of its findings in the hearing setting. Its primary mission is to gather accurate and timely information that can advise the deliberations of the committee, and it seeks witness input through testimony and answers to questions. From the witness's point of view, the hearing provides an opportunity to educate the committee and advocate a specific position on a public policy issue.

For those engaged in preparation for a hearing, you might want to consider a handy checklist of the essential elements of an effective and successful congressional hearing, and of effective testimony, from the perspectives of both a congressional committee and a witness:

- adherence to committee rules and guidelines, including promptness and limitation of time for speaking;
- execution of the proper roles of committee members, staff and witnesses;
- timely submission of a thorough and well-written statement for the record and other requested materials;
- attention to hearing logistics and conduct;
- substantive "give and take" between the committee members and witnesses, especially during the question and answer portion of a hearing;
- effective education of the committee and a genuine "making of the record" and contribution to the policy-making process by witnesses whose testimony represents their particular stake in the issue under review;
- adequate witness preparation to provide oral testimony before the committee in an articulate, clear, concise and helpful manner;
- a clear explanation of all issues, and forthrightness and candor in testimony;
- professionalism and courtesy in communications between witness and committee;
- responsiveness to questions posed to a witness by the committee both during and after the hearing;
- and, timely transmittal of materials and information requested of a witness by the committee as a follow-up to the hearing.

Whether a committee member or congressional staffer preparing for a hearing, or a witness or a petitioner from the outside preparing a witness to testify on hearing day, you would be well-advised to take a close look at the purpose, planning, preparation, operational, and contextual aspects of the hearings process to maximize the results for those on both sides of the witness table. A little education and understanding can go a long way.

---

Bill LaForge is a lawyer/lobbyist with the Winstead law firm in Washington, DC, and author of a new book, *Testifying Before Congress*, published by TheCapitol.Net and scheduled for release this summer.