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Senate Committee Hearings: Witness Testimony

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Generally, witnesses before Senate committees (except Appropriations) must provide the committee with copies of their written testimony at least one day prior to their oral testimony. It is common practice to ask a witness to limit his or her oral remarks to a brief summary of the written testimony. A question-and-answer period usually follows a witness's oral testimony. Senate rules require committees to make publicly available a transcript or recording of any public meeting.

Advance Written Testimony

The individual rules adopted by committees generally state how far in advance of hearings written testimony should be filed (usually 24-72 hours). Often witnesses must submit multiple copies of their statements. Senate committees typically require witnesses to submit electronic copies of their statements. Committees seldom limit the length of written statements, but some committees require witnesses to include a brief summary of testimony along with the full text.

A committee's chair and ranking minority member may waive the advance written testimony requirement (Rule XXVI, paragraph 4(b)). The requirement might be waived, for example, if a witness is invited with little notice. Committees are usually diligent about obtaining advance written testimony, and a committee can ask committee staff to prepare summaries of these statements prior to the hearing (Rule XXVI, paragraph 4(b)). Staff sometimes provide copies of such summaries for distribution to the public and press.

Oral Testimony

Each committee or subcommittee may set its own quorum for taking oral testimony at hearings (Rule XXVI, paragraph 7(a)(2)). Most Senate committees require one member to take testimony, but some have other quorum requirements. For instance, the Armed Services Committee has set a quorum of three members, including one member of the minority, to take sworn testimony unless otherwise ordered by the committee (Armed Services Committee Rule 6 (c)).

It is common for committee members to make opening remarks at the beginning of a hearing. Next, the committee chair generally introduces each witness in accordance with a pre-arranged order and format (such as a panel format). By statute, any Senator is authorized to administer the oath to a witness (2 U.S.C. 191). Committee rules commonly allow testimony under oath at the discretion of a committee's leaders. (In practice, most committees rarely require witnesses to testify under oath at legislative hearings. Sworn testimony is more common at investigative hearings and confirmation hearings.)

Since many committees limit the length of a witness's remarks, a witness typically orally presents only a shortened version of his or her submitted written testimony. A committee may direct its staff to prepare a summary of the oral testimony given on a particular day, and with the approval of the chair and ranking minority member, a committee may include these summaries in its published hearings (Rule XXVI, paragraph 4(c)).

Questioning Witnesses

The question-and-answer period following a witness's statement provides Senators an opportunity to clarify assertions made in testimony, expand upon witness statements, build a public record, and obtain information on which to base future actions. Committee staff often draft questions or talking points for members to use in questioning witnesses.

Each committee determines the order in which Senators question witnesses. A common practice is to alternate between Senators from the respective parties in order of seniority. Some committees operate under a so-called “early bird” rule or practice, which instead permits Senators to question witnesses based on the Senators’ order of arrival at the hearing. Some committees use a combination of these two methods, and committee chairs often allow Senators to proceed out of order. Also, Senators often submit written questions to which witnesses can respond in writing following the hearing.

Although Senate rules do not restrict the length of time each Senator may question a witness, several committees have adopted such rules. Some committees limit each Senator to five minutes per witness until all members present have had a chance to ask questions. Some committees also authorize committee staff to question witnesses.

Printing Hearings

Committees regularly employ reporting services to transcribe their hearings. Committees are required to prepare and keep a transcript (or electronic recording) of any meeting—even a closed meeting unless a majority of the committee members vote otherwise in that case (Rule XXVI, paragraph 5(e)(1)). Unless the meeting is closed (pursuant to Rule XXVI, paragraph (5(b))), a transcript or a video or audio recording must be posted on the Internet no later than 21 business days after the meeting and remain posted until the end of the Congress after the meeting. This requirement may be waived by the Rules and Administration Committee in cases of technical barriers to compliance (Rule XXVI, paragraph 5(e)(2)(A), (B), (C)).

Committees are also authorized to publish their hearing transcripts and associated materials and usually do so (Rule XXVI, paragraph 10(a)). Senate rules encourage committees to make “every reasonable effort” to have hearings on a reported measure printed and available to Senators prior to its floor consideration (Rule XVII, paragraph 5). Supplemental materials may also be printed as part of the hearing record. For example, a committee might include charts and research materials, written statements of witnesses, witness responses to follow-up questions, other materials submitted by witnesses, letters and testimony from individuals who did not testify in person, and, with the approval of a committee’s chair and ranking member (Rule XXVI, paragraph 4(c)), any staff summaries of witness testimony.

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