PROCEDURES FOR THE USE OF STAFF DEPOSITION AUTHORITY

HON. PETE SESSIONS
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, January 7, 2015

Mr. SESSIONS. Mr. Speaker, pursuant to section 3(b)(2) of House Resolution 5, 114th Congress, and section 4(c)(5)(B) of House Resolution 567, 113th Congress, I hereby submit the following regulations regarding the conduct of depositions by committee and select committee staff for printing in the CONGRESSIONAL RECORD:

1. Notice for the taking of depositions shall specify the date, time, and place of examination (if other than within the committee offices). Depositions shall be taken under oath administered by a member or a person otherwise authorized to administer oaths.

2. Consultation with the ranking minority member shall include three business days’ notice before any deposition is taken. All members of the committee shall also receive three-business days notice that a deposition has been scheduled.

3. Witnesses may be accompanied at a deposition by counsel to advise them of their rights. No one may be present at depositions except members, committee staff designated by the chair or ranking minority member, an official reporter, the witness, and the witness’s counsel. Observers or counsel for other persons, or for agencies under investigation, may not attend.

4. At least one member of the committee shall be present at each deposition taken by the committee, unless the witness to be deposed agrees in writing to waive this requirement.

5. A deposition shall be conducted by any member or staff attorney designated by the chair or ranking minority member. When depositions are conducted by committee staff attorneys, there shall be no more than two committee staff attorneys permitted to question a witness per round. One of the committee staff attorneys shall be designated by the chair and the other by the ranking minority member. Other committee staff members designated by the chair or ranking minority member may attend, but may not pose questions to the witness.

6. Questions in the deposition shall be pronounced in rounds, alternating between the majority and minority. A single round shall not exceed 60 minutes per side, unless the members or staff attorneys conducting the deposition agree to a different length of questioning. In each round, a member or committee staff attorney designated by the chair shall ask questions first, and the member or committee staff attorney designated by the ranking minority member shall ask questions second.

7. Any objection made during a deposition must be stated concisely and in a non-argumentative and non-suggestive manner. The witness may refuse to answer a question only to preserve a privilege. When the witness has objected and refused to answer a question to preserve a privilege, the chair of the committee may rule on any such objection after the deposition has adjourned. If the chair overrules any such objection and thereby orders a witness to answer any question to which a privilege objection was lodged, such ruling shall be filed with the clerk of the committee and shall be provided to the members and the witness no less than three days before the reconvened deposition. If a member of the committee appeals in writing the ruling of the chair, the appeal shall be preserved for committee consideration. A deponent who refuses to answer a question after being directed to answer by the chair in writing may be subject to sanction, except that no sanctions may be imposed if the ruling of the chair is reversed on appeal.

8. Committee staff shall ensure that the testimony is either transcribed or electronically recorded or both. If a witness’s testimony is transcribed, the witness’s counsel shall be afforded an opportunity to review a copy. No later than five days thereafter, the witness may submit suggested changes to the chair. Committee staff may make any typographical and technical changes. Substantive changes, modifications, clarifications, or amendments to the deposition transcript submitted by the witness must be accompanied by a letter signed by the witness requesting the changes and a statement of the witness’s reasons for each proposed change. Any substantive changes, modifications, clarifications, or amendments shall be included as an appendix to the transcript conditioned upon the witness signing the transcript.

9. The individual administering the oath, if other than a member, shall certify on the transcript that the witness was duly sworn. The transcript shall certify that the transcript is a true record of the testimony, and the transcript shall be filed, together with any electronic recording, with the clerk of the committee in Washington, DC. Depositions shall be considered to have been taken in Washington, DC, as well as the location actually taken once filed there with the clerk of the committee for the committee’s use. The chair and the ranking minority member shall be provided with a copy of the transcripts of the deposition at the same time.

10. The chair and ranking minority member shall consult regarding the release of depositions. If either objects in writing to a proposed release of a deposition or a portion thereof, the matter shall be promptly referred to the committee for resolution.

11. A witness shall not be required to testify unless the witness has been provided with a copy of rule XI of the Rules of the House of Representatives and these procedures.

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This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the House on the floor.