

BACK STORY

SOME ADMINISTRATIVE LAW PRACTICE DOS AND DON'TS

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An appropriate way to conclude this issue on administrative law is with a presentation of practical tips relevant to the practice of administrative law. In preparation for an administrative proceeding, there are things you should do and there are things you should not do.

Do...

...be prepared. Like a good Boy Scout, you should be prepared. Of course, there are many ways to prepare for an administrative proceeding, but fundamental to preparing for an administrative proceeding is knowing your decision-maker. Knowledge of his or her preferences, their likes and dislikes, can prove to be very advantageous. Obviously, even in traditional legal practice it is important to know the preferences of the decision-maker, but given the flexible, informal nature of administrative proceedings, it is particularly important to do research on the decision-maker prior to an administrative proceeding.

To get this information, you can ask other attorneys about the particular practices of the decision-maker before whom you will be appearing. Some questions to ask include:

- Does the decision-maker actively ask questions of the witnesses?
- How does the decision-maker handle the taking of exhibits?
- How does the decision-maker prefer to conduct the proceeding?
- How knowledgeable is the decision-maker with respect to the procedural and substantive law?
- What is the decision-maker's demeanor?

To prepare for an administrative proceeding, you should know the facts and the law involved in your case, cold. Without a doubt, you should be intimately familiar with the Nevada Administrative Procedures Act, NRS Chapter 233B. To avoid inappropriate objections, you should also know that the rules of evidence in administrative proceedings are relaxed compared to those of traditional courtroom practice. For example, hearsay evidence is generally admissible in administrative hearings (*Kiffe v. St. Dep't Mtr. Vehicles*, 101 Nev. 729, 709 P.2d 1017 (1985)).

Other ways to prepare for an administrative proceeding include sitting in on proceedings and reviewing transcripts. Additionally, you should visit the room in which the proceeding will be held in order to determine where key parties will sit and

what equipment and facilities will be available for your use.

...be prompt. Always ensure that you arrive to the administrative proceeding on time or early.

...be presentable. A well-kept, professional appearance will reflect well upon you and help maintain the most valuable asset in legal career, your credibility.

...be reasonable. Administrative decision-makers tend to favor attorneys who provide reasonable, practical solutions to procedural or logistical problems.

...be courteous. Be polite and professional to the decision-maker and the parties. Give the decision-maker the same degree of respect that would be provided to a judge in a traditional court proceeding.

...be efficient. Just like you, administrative decision-makers are very busy, so be mindful of their time. Lengthy, unnecessary cross-examination, for instance, will rarely curry favor with the decision-maker.

Don't...

- be a sore loser.
- argue with opposing counsel or the witness.
- don't interrupt.
- threaten the decision-maker with appeal.
- engage in prohibited ex parte conversations.
- use inflammatory language.
- blame others for your mistakes.
- use inappropriate body language.

The brief list of dos and don'ts presented in this article is by no means comprehensive, but it is hoped that this list will at least provide some food for thought the next time you have to handle an administrative law case. Heeding the tips in this article will go a long way toward preserving and enhancing your credibility before administrative decision-makers and thus help you to provide successful outcomes for your clients. ■

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