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Preparing for the Hearing

Rick Bales
ONU Law School
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1. Choosing an arbitrator.
 - a. Do your homework.
 - b. Ask attorneys.
 - c. Google
 - d. Confer with peers.

2. Gathering and assembling documents.
 - a. From the Local.
 - i. Make sure you have a well-written grievance.
 - ii. Get anything remotely pertaining to the grievance.
 - iii. Trust but verify.
 - b. From the Employer – in writing.
 - i. How do you phrase your request?
 - ii. Open Records request? Must submit early!
 1. Anticipate not getting what you've asked for.
 - c. Do you need a subpoena?
 - i. For documents? Be ready to explain why you need it.
 - ii. For witnesses?

3. Creating a timeline.
 - a. Helps with opening statement
 - i. Tell a story *in chronological order*.
 - ii. Really important for past practice arguments – when did it begin?
 - b. Helps you choose your first witness – who can best tell the “big picture” story?
 - c. Match at least one witness – and generally no more than two witnesses – to each fact in the chronology.
 - d. Helps you identify problems with your case.
 - i. This is how I write the “Facts” section of my awards.



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4. Preparing witnesses.
 - a. Can you gather everyone together in one room at one time? Talk through the chronology.
 - b. Identify and be able to explain any inconsistencies.
 - c. Warn against lying or fudging. These are credibility-killers.
 - d. Prepare witnesses for cross.
 - i. Answer only the question asked.
 - ii. “Resist the urge to explain. If an explanation is needed, I will give you that opportunity after cross when I get to ask follow-up questions.”
 - iii. Anticipate the opposing advocate:
 1. Being forceful or even hostile.
 2. Asking the same question 3 different ways.
 3. Mischaracterizing your previous testimony.

5. Working with opposing counsel
 - a. Why?
 - i. Arbitrator will appreciate
 - ii. Saves time and arguing at the hearing.
 - b. Joint exhibits
 - i. CBA
 - ii. Grievance trail – even if nothing in it is at issue.
 - iii. Consider stipulating to the admissibility of other documents.
 1. Especially if hearing is online and the parties are exchanging exhibits anyway.
 - c. Stipulate to facts?
 - i. In a contract interpretation case.
 - ii. In a discipline/discharge case.
 - d. Court reporter
 - i. Do you need one?
 - ii. Will both parties get a transcript and split the cost?

6. Exhibit binders.
 - a. Make 4: you, arbitrator, opposing counsel, court reporter
 - b. Give everything at once, or serially?
 - c. Think through the order you will present your witnesses.



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7. Developing a case strategy.
 - a. For discipline/discharge:
 - i. I didn't do it.
 - ii. I did it, but everyone else did too (past practice).
 - iii. I did it, but it's not as bad as the District says.
 - iv. I did it, and it was bad, but I'm really sorry.
 - v. How dare the District accuse me of misconduct after they bungled the investigation!!!
 - b. For contract-interpretation cases:
 - i. Intent of bargaining team is rarely a winning argument.
 - c. Anticipate employer's arguments.
 - i. Timeline – where are your holes?
 - ii. Address a witness's weaknesses on direct. Takes the wind out of cross.
8. Drafting or outlining your opening statement (for another training session).