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# ASSOCIATION OF COLLEGE HUMAN RESOURCE OFFICERS (ACHRO) 2018 FALL INSTITUTE

## A Mock Deposition of a CHRO

*10/11/2018*

*PRESENTED BY:*

**Eileen O'Hare-Anderson & Pilar G.  
Morin & Dr. Albert Román**

**AREAS HUMAN RESOURCES OFFICERS  
MAY BE ASKED ABOUT DURING DEPOSITIONS**

1. Your background, training, career history and progression. Review and update curriculum vitae to ensure it lists all positions.
2. Your involvement with training, committees, recruitment, etc.
3. Your understanding of employment agreements, including collective bargaining agreements, handbooks, policies, and procedures. Questions may include changes in language and whether supervisors are required to be familiar with the policies or procedures.
4. The District's training on policies and procedures.
5. Who has responsibility for investigations, including whether or not the CHRO conducts investigations. If so, the deposition will include questions about investigation training, procedures, maintaining documents, and whether the investigator found policy violations.
6. What your role is regarding discipline, accommodations, and other decisions made by supervisors/District (or alternatively, how you and supervisors make such decisions).
7. The chronology pertaining to the specific situation, including interim measures. Watch out for questions that argue the District failed to prevent, correct, investigate, or address the complaints. Work with counsel to include review of relevant documents and identify witnesses who became involved in or informed of the situation.
8. Whether you agree with the actions and decisions taken. Counsel for employee will try to get the CHRO to criticize or seek criticism of or inconsistencies with actions and decisions taken.
9. Counsel for employee will ask hypothetical questions.
10. Counsel for employee will seek evidence of rules being applied differently. Will compare or argue treatment was harsher or different. If this evidence exists, be ready to explain why situation was different.
11. Discuss with District's counsel the employee's theories and understand them; the attorney for the employee will attempt to have the CHRO agree with the employee's theories.
12. Whether the District's counsel is also your counsel; generally, the District lawyer represents the CHRO in his or her professional capacity. Therefore, discussions are covered by the attorney client privilege.

### **WITNESS PREPARATION CHECKLIST**

1. Listen to the question. If you didn't hear it, ask that it be repeated.
2. Understand exactly what the question is. If you don't understand, ask that the question be rephrased.
3. Think about the question. Pause before you answer.
4. Answer only the question and answer concisely. Your role is to answer only the question you are asked; do not to volunteer what you think the examiner wants to know.
5. Don't guess or speculate. If you do not know the answer, the only truthful answer is "I do not know."
6. Answer only based on your personal knowledge of the facts, unless the question asks for information you learned from others.
7. If you are not certain, or do not know, say so. Qualify your answer as needed, "I am not certain."
8. You are not required to memorize what is in a document. If you are asked about a document or it would make your testimony more accurate, ask to see the document.
9. Read documents provided to you carefully before you answer a question. Do not rush.
10. Do not get angry. Some lawyers have a style calculated to irritate you or cause you to lose your temper. Do not do it. It will cause you to make incorrect statements.
11. Do not feel you need to memorize any facts. Testify to the best of your recollection. If you wrote it down, then say that. "I don't recall, but I wrote a memo about it."
12. Do not take your notes or any documents with you into the room; if you do so the employee's attorney has a right to see them and ask you about them.
13. Set your own pace—do not let the speed of the examiner's questions dictate the speed of your answers.
14. Listen to the objections the District's counsel makes, they may tell you why he or she believes the question is improper. For example, he or she may object to the form of the question; the mischaracterization of your previous testimony; or that a question has already been asked and answered.
15. Your statement will be in a transcript. Make each question and answer stand alone. If read out of context later the answer should convey accurately your intended testimony.

16. Do not testify as to what you assume occurred—only what you know occurred. Never speculate.
17. The employee’s lawyer can ask you about conversations you had with other witnesses. Always answer honestly. The employee’s counsel will expect that you met with the District’s lawyer to prepare. So, do not be reluctant to admit it. There is nothing improper about that. It is the job of lawyers to prepare for the deposition or hearing and know the evidence so they can present the case.
18. Don’t try to hide embarrassing facts. We will object if the question goes into private or privileged areas. In a deposition, there is no judge to rule on an objection, so unless your lawyer tells you otherwise, you must answer. But if your lawyer directs you not to answer, do not answer.
19. A document says what it says—not what the examiner says that it says. The employee’s lawyer can ask you about your understanding or application about rules, procedures, etc.
20. Witnesses are not allowed to sit in during other witness testimony unless they will be the representative for the District.
21. Answer audibly, and not with nods or shakes of your head. Use words, not uh huh.
22. Straighten out confusion.
23. Give, to the best of your recollection, accurate estimates (time, speed, distance). If you do not know say so, or say it is an approximation, etc.
24. Clarify multiple meanings. Beware of a question that assumes a fact. Watch out for alternative questions. Your lawyer will raise objections from time to time. If you are going to fast, he or she will not be able to get objections on the record.
25. Do not chew gum.
26. Do not be defensive. Do not take things personally.
27. Be courteous.
28. Never joke on the record. Be respectful at all times.
29. Tell the truth.