Sixty-Ninth Annual

NATIONAL MOOT COURT COMPETITION RULES, COMMENTS, AND FORMS

2018-2019

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Background

The New York City Bar Association's National Moot Court Competition is an annual inter-law school event designed to promote the art of appellate advocacy. It is sponsored by the New York City Bar Association's National Moot Court Competition Committee ("Committee") and the American College of Trial Lawyers.

The Competition consists of Regional and National Final rounds. The United States is divided into 14 regions and Committee-designated sponsors grade briefs and conduct oral arguments for the law school teams located in each region. Two law schools from each regional competition may qualify for the National Finals.

These Rules govern the Competition. The Committee's interpretations of the Rules are final and its decisions are binding on all competitors. All Rule interpretation requests should be sent to the City Bar (mootcourt@nycbar.org), Byron Huang (byron.m.huang@gmail.com) and Daniel Rothschild (daniel.j.rothschild@gmail.com), Co-chairs of the National Moot Court Competition Committee. The comments accompanying certain rules describe general policies and practices and are for informational purposes only. The Appendix of Forms contains exemplars that are consistent with the Rules and may be used by the Committee and regional sponsors.

The Committee holds copyrights to all Competition materials. Express written permission is required to use them for any purpose other than participation in this Competition. Competitors grant the Committee nonexclusive worldwide rights to reproduce and distribute any materials submitted or recorded throughout the Competition.

Rule 1 – Competition's Mission

The purpose of this Competition is to benefit our profession by helping law students develop the art of appellate advocacy. Participants in any aspect of this Competition are expected to follow the letter and spirit of these Rules and to maintain the highest level of professionalism throughout the Competition.

Rule 2 – Teams

2.1 **General.** The Committee and regional sponsors determine how many teams may enter each regional competition. Teams may consist of two or three law students (full or part time; day or evening). Competitors graduating after regional rounds may participate in the National Finals.

2.2 **Team Substitution.** Teams may not substitute competitors after briefs have been served, except with the Committee's written consent. No substitution request will be granted after regional rounds begin unless the number of competitors on the team has fallen below two.

2.3 **Team Selection.** Law schools may use old copies of our materials to select competitors for the National Moot Court Competition but must first obtain the Committee's written consent.

2.4 **Team Numbers.** The Committee (or regional sponsor) will assign each team a unique number that will be used to identify teams throughout the regional or National Final rounds.

Comments

Over the course of the seven-decade history of the National Moot Court Competition, local traditions and procedures have been adopted in various regions, including allowing law schools to enter more than one team.

Teams. Rule 2.1 clarifies that regional sponsors may, with the Committee's written permission, allow two teams per law school to compete. Additionally, if a regional sponsor is unable to accommodate a law school, the Committee may allow the school to compete in a different region. The Rule also confirms that part time students as well as those graduating in December or January are eligible to participate.

Substitutions. Rule 2.2 is designed to ensure that, absent extraordinary circumstances, the students who were part of the team during the drafting of the brief will be the same students who are on the team during the oral argument rounds. Thus, schools may not allow one group of students to write the brief and then permit a different group of students to engage in oral argument.

Rule 3 – Briefs

3.1 **General**. Each team must submit a brief. A team may write on behalf of either petitioner or respondent. Teams from the same law school must brief opposite sides of the case.

3.2 **Format**. Brief format generally follows that used by the United States Supreme Court unless otherwise directed by these Rules. No formal statement of jurisdiction is needed. Briefs must use citations as prescribed by the current edition of *The Bluebook: A Uniform System of Citation*. All briefs must:

3.2.1 Be printed on 8.5 x 11 inch paper.

3.2.2 Use Century family (*e.g.,* Century, Century Schoolbook, etc.) 12-point type.

3.2.3 Have at least one-inch margins on all sides.

3.2.4 With the exception of the table of contents, questions presented, table of authorities, footnotes, block quotations, argument headings, or appendices, the entire content of the brief must be double-spaced.

3.2.5 Contain no more than 12,000 words. The word limit does not apply to the table of contents, the table of authorities, questions presented, or appendices. The word limit does apply to argument headings and footnotes.

3.2.6 If hard copies are required, be firmly bound at the left margin (e.g., perfect binding, etc.).

3.2.7 Appendices may only be used to recite relevant statutory text (e.g., constitutional provisions, regulations, etc.) and material not generally available. No appendix may exceed 30 pages in length. Any partially-filled page will count as a full page.

3.3 **Copies**.

3.3.1 **Hard (paper) copies**. All hard copies submitted must be identical. Briefs may be copied using any process producing a clear black image on white paper. Briefs may be duplicated on one or both sides of a page. The copying process, however, may not reduce the character size.

3.3.2 **Electronic copies**. Electronic copies must be in text-searchable portable document format (PDF) compatible with the latest version of Adobe Reader. The electronic copy must be identical to any hard copy, except as otherwise expressly instructed by these Rules.

3.4 **Identification**. No brief may be signed. Team numbers must appear in

the upper right corner of every brief. In instances where these Rules provide for the inclusion of competitor and law school names on the brief, those items should appear in the lower right corner of the cover page only.

3.5 **Certification**. Competitors must certify that they prepared their brief in accordance with the Rules and that it represents the work product solely of those competitors.

The following form of certification must be served with the brief as a separate document/file.

> We certify that [name of law school]'s brief is solely our work product and that we did not receive any assistance in writing it. We performed a word count which revealed a total of [number] words.
>
> [signature]_____ [signature]_____ [signature]_____
> [student's name] [student's name] [student's name]

3.6 **No Revisions**. Once a team serves its brief pursuant to Rule 4, it may not revise it.

3.7 **Brief Grading**. Briefs must be assigned a score in the range of 80-100.

Comments

Briefs are a critical component of appellate advocacy and play an important role throughout the Competition. Indeed, in professional practice, briefs carry significant weight with appellate courts. In this Competition, briefs represent 40% of each team's final score during each round.

Grading. The Regional Sponsor must blindly grade each brief prior the start of the Regional Rounds. The Committee must blindly grade each brief before the National Final rounds. The grading process must be consistent within each round.

The Committee recommends that at least four people grade each brief, though this is not required. If six or more graders are involved in the process, the Regional Sponsor or Committee may eliminate the lowest and highest assigned scores prior to averaging them.

After the briefs are scored (individual graders will deduct points for typographical or citation errors), penalties may be assessed for Rule 3 violations (e.g., brief length, team identification, etc.). The penalties may be levied in fractions

and – except for extreme violations – most single violations should receive two or fewer penalty points.

Penalties are not the same as deductions. For an explanation regarding penalties, please refer to the Comments for Rule 11. Deductions are made during the grading process whereas penalties are imposed after grades have already been assigned. "Form 1: Brief Grader Score Sheet" (see, Appendix of Forms) explains that individual brief graders may deduct up to five points for issues such as typographical and citation errors. Multiple identical errors are considered only one error and no points are deducted for the first two errors of each type. For example, if only two or fewer words or misspelled or if there are only two or fewer citation errors, there would be no deductions for those particular types of errors.

The score that the Regional Sponsor assigns to each brief is that team's official Competition score for the Regional Round. The score that the Committee assigns to each brief for the National Final Round replaces the Regional Round score as the official Competition score for the National Final Round. Teams may receive different scores for the National Finals than they received during the regional rounds.

Committee's Grading Process. Before the Region 2 and National Final rounds, the Committee selects a subcommittee of brief graders to review, discuss, rank, and score the briefs.

At the beginning of the Region 2 and National Final Rounds, the Committee will release a ranking of briefs, but it will not release brief scores until after the Competition is complete. This system is designed to more closely approximate professional practice, in which advocates must await the decision on the motion or appeal to learn the judges' opinions of the briefing. This system also is intended to focus competitors on the advocacy experience rather than the minutia of Competition scoring.

Rule 4 – Service of Briefs

4.1 **General**. For Regional Rounds, teams must serve their brief on the Regional Sponsor, the National Committee and each team in their region by 11:59 p.m. Eastern Time on **October 19, 2018**. Teams competing in the National Finals must serve their brief on the Committee and each competing team by **December 3, 2018**. The Rule 3.5 certificate must be included with service of the brief.

4.2 **Method of Service**. Service is electronic on the TWEN online platform.

4.2.1 **Good-Cause Allowance of Hard Copy Service.** The foregoing notwithstanding, Regional Sponsors may request leave of the National Committee to require supplemental hard copy service. Any region wishing to request such an allowance must do so at least two weeks before the deadline for submission of briefs.

Hard copy service is disfavored, and the National Committee will permit hard copy service only for good cause, the sufficiency of which lies in the sole discretion of the National Committee. If an allowance for hard copy service is issued, the National Committee will provide the regional teams with additional instructions for hard copy service.

4.3 **Materials for Service.** For Regional Rounds, electronic service consists of one text-searchable PDF copy of the brief. This copy of the brief should contain a cover page bearing only the team's number in the upper right corner—no school or competitor names should appear anywhere in the document. The file name should follow the format: "Region [#] Brief—Team [#]."

Teams competing in the National Finals will need to serve two PDF copies of their brief. The first copy will be identical to the one served for the Regional Round, except that the team number will be updated to reflect the team's National Final team number. The second copy will be identical to the first in all respects, except the cover page and file name. This second copy should contain a cover page bearing, in addition to the team number in the upper right corner, the team's school name and the names of all team members in the lower right corner. The name of this file should follow the format: "Final Brief—Team [#], [School Name]."

In addition to these items teams must serve the Rule 3.5 Certification.

4.3.1 **Contents of Service – Regional Rounds.** Service for the Regional Rounds should be accomplished by (1) uploading the PDF(s) created pursuant to Rule 4.3 to the "Assignment" on the TWEN course site for the appropriate Region, and (2) uploading the PDF(s) created pursuant to Rule 4.3 to the Forum on the TWEN course site established by the Regional Sponsor for the appropriate Region. The comment box that accompanies the "Assignment" submission and Forum submission should include: "Brief for Team [#], [School Name]," school name, competitor names, and team representative's contact information. No other message or information should be included.

4.3.2 **Contents of Service – National Finals.** Service on the National Committee should be accomplished in the same manner as the Regional Rounds, except should be directed to the "National Finals" TWEN course site.

4.3.3 **Execution of Service.** Service is complete when the two submissions ("Assignment" submission and Forum submission) compliant with these rules have been made.

Rule 5 – Clerks

5.1 **General**. Each team is responsible for supplying a courtroom clerk for oral argument. As a courtesy, however, regional sponsors may elect to provide clerks. During argument, clerks track their team's time and visibly display time

cards showing remaining time to judges and competitors.

5.2 **Eligibility**. With the exception of competitors arguing during that round and competitors from other teams that are still competing, anyone may serve as a clerk.

5.3 **Duties**. Clerks are responsible for ensuring arguments proceed consistent with these Rules. Both clerks will escort judges to the courtroom.

5.3.1 **Petitioner's clerk**. The Petitioner's clerk calls the Court to order and tracks petitioner's time.

5.3.2 **Respondent's clerk**. The respondent's clerk tracks respondent's time and instructs everyone (including clerks) to exit while judges assign scores.

5.3.3 **Calculation and Announcement of Scores for Regional Rounds**. The judges will provide scores for each team. Both clerks will deliver the scores to Competition Officials and may remain in the scoring room until the total score is calculated and a winner is declared. Both clerks will carry the results to the judges who will announce the winner.

5.3.4 **Calculation and Announcement of Scoring for National Final Rounds.** The judges will provide scores for each team in a sealed envelope. Both clerks will deliver the sealed judges' envelope to Competition Officials and may observe the tabulation of scores. Both clerks will carry the results to the judges in a sealed envelope to be opened and announced by the judges.

Comments

Rule 5 details the responsibilities of courtroom clerks. Regional Sponsors or the Committee should review those responsibilities with competitors and clerks before the Regional or National Final rounds begin. Among them:

- Accurately track time (make sure timer is working properly);
- Verify the courtroom contains no items that may give one team an unfair advantage or identify competing law schools or regional affiliations;
- Ensure competitors have completed time allocation sheets; and
- Escort judges to courtroom.

Cry of the Supreme Court. Clerks introduce the panel in two steps.

Step 1: Announce Justices by stating:

"All Rise! The Honorable the Chief Justice and Associate Justices of the Supreme Court of the

United States."

Step 2: As the Justices enter the courtroom, announce:

"Oyez! Oyez! Oyez! All persons having business before the honorable the Supreme Court of the United States are admonished to draw near and give their attention, for the Court is now sitting. God save the United States and this honorable Court."

An audio sample of the U.S. Supreme Court Marshal making this announcement can be found on the Committee's website at: http://www.nycbar.org/images/audio/oyez.mp3

Time Tracking. Once arguments begin, clerks track time for each team consistent with the time allocation sheets. Each team is allotted **30** minutes total to argue.

Eligibility. Rule 5.2 clarifies that no competitor still in contention may serve as a clerk unless that competitor is a member of one of the two teams arguing in the particular courtroom. For example, if Team A is arguing against Team B, then Team A could not appoint a member of Team C to serve as a clerk if Team C is still in the Competition. The purpose of the Rule is to avoid situations that may result in a violation of Rule 10 (No Scouting).

Rule 6 – Oral Arguments

6.1 **General**. Two competitors, no more or fewer, must represent each team during every argument. Competitors must argue the issues in order (first issue then second issue). Judges are never informed of a team's brief score.

6.2 **Admissible Authority.** At oral argument, no team may rely on any authority (whether binding or persuasive, primary or secondary) that was published after October 19, 2018.

6.3 **Time**. Each team receives up to **30** minutes for argument. The Petitioner may reserve up to 5 minutes for rebuttal; only one competitor may argue rebuttal. Judges may briefly extend time to allow a competitor to conclude.

6.4 **Scoring**. A panel of judges determines oral argument scores and the Regional Sponsor or Committee determines the winner of each round.

6.4.1 **Criteria**. Evaluative criteria include competitors' knowledge of the Record, knowledge of relevant law, courtroom demeanor, persuasiveness and

extemporaneous ability.

6.4.2 **Deliberation**. The panel must assign a score in the range of 80-100 to each team. Ties are not permitted. Except as noted in Rule 6.4.3, the decision must be unanimous.

6.4.3 **Score sheets**. In lieu of deliberation, Competition Officials may permit judges to independently grade teams or individual competitors with the assistance of score sheets pre-approved by the Committee. To ensure that use of score sheets does not create inflated differentials, judges are required to (i) consider only the five criteria listed in Rule 6.4.1 *and* (ii) assign differentials of no more than four points per criterion **per team**. Total team scores must be in the range of 80-100. In the event of a tie, judges must revert to assigning scores per Rule 6.4.2.

6.4.4 **Winner**. The winner of each round is determined by combining the panel's scores with each team's brief score, weighing the argument 60 percent and the brief 40 percent (e.g., argument x .60 + brief x .40 = final score). Scores are computed to the nearest hundredth decimal (e.g., 92.75). For both Regional and National Final rounds, the results of each round of the Competition must be announced following that round so that each team knows where it stands before the following round begins.

6.4.5 **Ties**. Occasionally, a tie may occur after combining oral argument and brief scores. If that occurs, the team with the higher oral argument score is the winner.

6.4.6 **Finality.** Once judges release their ballots to the Competition Officials, those ballots are final and cannot be challenged, except that Competition officials may seek clarification of a ballot to the extent necessary to address illegibility or mathematical incoherence. For Regional Rounds, where team clerks are permitted in the scoring room, any challenges to the score computations must be made and resolved before the result is released back to the courtroom.

6.5 **Seeding**. After the preliminary rounds, teams are seeded in order of win-loss record.

6.5.1 **Ties**. Ties are resolved in the following order: (1) aggregate point differential (see Rule 6.5); then (2) brief score; then (3) coin toss.

6.5.2 **Seeding explained**. Teams with the same win-loss record will be ranked based on aggregate point differential. Teams with the same win-loss record *and* aggregate point differential will be ranked based on brief score. If a tie remains, a coin toss will determine seeding.

6.5.3 **Seeding May Not Be Altered.** The seeding that results from the protocol described in this rule may not be altered, except by prior permission of the

National Committee. In no event may the seeding protocol or resulting competition brackets be altered to prevent or defer the meeting of two teams from the same school.

6.6 **Aggregate Point Differential**. Aggregate point differential refers to the sum total of composite scores from the prior rounds. Thus, if *Team A* won its first round by five points (e.g., *Team A*'s brief score was 90 and its argument score was 90 and *Team B*s brief score was 85 and its argument score was 85), and lost its second round by two points (e.g., *Team A*'s brief score was 90 and its argument score was 90 and *Team C*s brief score was 92 and its argument score was 92), its aggregate point differential would be +3 (the net of the +5 difference in round one and the -2 difference in round two).

6.7 **Petitioner/Respondent**. After preliminary rounds, a coin toss is used to determine which side of the case a team will argue. The higher-seeded team calls the coin toss while the coin is in the air.

6.8 **Recordkeeping**. Regional Sponsors and the Committee maintain records of argument and brief scores throughout the Competition and for 30 days thereafter.

6.9 **Judicial Conflicts**. Conflicts arise when judges currently teach or coach at a particular law school or when they are otherwise able to identify competitors or their law schools. If a conflict occurs, judges must be reassigned unless the judge and both teams agree to waive the conflict.

6.10 **Anonymity Required**. Clothing, accessories, and other material bearing the name, abbreviation, insignia, logo, or other identifying information that would enable a third party (other than a competition administrator) to determine the school, state, or regional affiliation of any competitor is strictly prohibited at the oral argument location. Competitors and coaches are responsible for ensuring compliance with this rule by everyone accompanying, supporting, or otherwise affiliated with their team. Unintentional violations of this rule may be punished commensurate with any actual advantage obtained by the relevant team(s), the determination of intent, advantage, and penalty lying in the sole discretion of the competition administrators. Violations of this rule that are determined, in the sole discretion of the National Committee, to have been intentional may be punished by disqualification.

6.11 **Exhibits.** Use of exhibits at oral argument is prohibited.

Comments

Orientation. Before the Regional or National Final Rounds begin, all competitors should attend an orientation. During the orientation, competitors may receive brief scores for all other teams competing in the Regional and information

concerning argument procedures.

The key factors to success include the following:

- Presenting an in-depth understanding of the Record;
- Demonstrating a solid command of all key legal issues;
- Displaying a professional courtroom demeanor;
- Communicating persuasively and extemporaneously; and
- Following all Rules.

Anonymity. Rule 6.10 is intentionally broad and will be liberally construed to ensure compliance with its spirit as well as its letter. The rule is intended to prohibit any form of identification that could implicate the favoritism, prejudice, or other bias of the judges. Such identification is not limited to school names, logos, or colors. It also includes, but is not limited to, indicators that a competitor is from a particular state or region.

Argument Procedures. Before every argument, teams must complete a "Time Allocation Sheet" specifying how much time each competitor will devote to his/her argument (petitioner may reserve up to 5 minutes for rebuttal). In all, each side has 30 minutes to make its case. During argument, the petitioner presents its case (both issues, in order), then respondent presents its case (both issues, in order). If petitioner reserved time for rebuttal, then one competitor may rebut respondent's arguments.

Participants should introduce themselves to the court in the usual manner, but may never identify their schools during argument. Any team that mentions its (or opponent's) law school name will automatically receive a 5 point deduction against its oral argument score.

Judges. Before each argument, competitors should be made aware of the names of the judges on their panel. This will allow students to identify potential conflicts before an argument begins. If a conflict arises, judges may be re-assigned or the conflict may be waived by the judge and competitors for both teams.

Judges on a given panel may not be employees of the same company, firm, organization, or court. Fellow law firm partners may not sit on panels together. For example, partners may not sit on panels with associates from their firms, nor may sitting judges sit on panels with their clerks.

The Committee and Regional Sponsors endeavor to put at least three judges on all panels. All judges should receive the Record and Bench Memorandum in advance.

Prior to arguments, judges should be carefully instructed on how to proceed. Judges should be encouraged to engage all participants. Judges should be informed

that they must assign oral argument scores for each team. No ties are allowed.

Judges who arrive after oral argument has begun will not be permitted to join the panel.

Scoring criteria. Judges should be advised prior to argument regarding the evaluative criteria (knowledge of the Record and law, courtroom demeanor, persuasiveness and extemporaneous ability). Judges should be further be strongly advised that they may not apply any other criteria when scoring oral argument, including but not limited to their own opinion of the merits of the case or which side they believe would or should prevail in a real court.

Score Sheets. Although the Committee employs score sheets to evaluate oral arguments and allows Regional Sponsors to do likewise, the Committee does not require the use of score sheets. Rule 6.3.3 has been added simply to ensure that the use of score sheets does not violate Rule 6.3.4, which requires that brief scores account for 40% of each round's final score. The Committee will not approve any Local Rule requests that could potentially impact the 60/40 ratio.

Point Differential Guidance. Judges should be advised before argument that the scores must be in the range of 80-100 and that the point differential between the two teams plays a key role determining the winner of each round. Regardless of whether judges use score sheets or deliberate, they should be informed that when the argument quality between the two teams is close, the point differential between the two teams should be only one to five points (e.g., 96-95). When a clear difference exists between teams, judges may assign a point differential between six to nine points (e.g., 96-90). Only when a significant difference exists between teams should the total differential be ten points or more (e.g., 96-86).

Confidential Scoring. Per the rule on confidential scoring, access to the scoring room for the National Final Rounds will be strictly limited to competition administrators, staff, clerks who are observing the tabulation of the scores and judges whose service in the competition has concluded.

Time. Once the courtroom clerk informs a competitor that time has expired, that competitor must immediately end his/her presentation. Judges may, however, briefly extend time to allow the competitor to conclude.

Feedback. After the Regional Sponsor or Committee calculates scores and the panel announces the winner, judges should offer participants constructive feedback.

Prizes. The American College of Trial Lawyers provides each Regional Sponsor with prizes for the Best Advocate as well as for the members of the winner and runner-up teams.

Bench Memorandum. Only brief graders and argument judges should receive the confidential Bench Memorandum. Regional Sponsors must never share this confidential document with anyone else, even after the National Rounds. Regional Sponsors should task someone to check courtrooms after each round to make sure judges do not inadvertently discard Bench Memorandums.

Video. Videos of the championship arguments of the previous National Finals are available on the New York City Bar website at: http://www.nycbar.org/law-students/national-moot-court/video-archive. The Committee and/or Regional Sponsors may record any round (audio, video, photographs, etc.), and a student's decision to enter and participate in the Competition constitutes consent to the creation and publication of such recordings.

Rule 7 – Regional Rounds

The goal of the Regional Rounds is to determine the law schools that will advance to the National Finals.

7.1 **Time and Place**. Regional Sponsors determine the time and place for each argument. All regional rounds must be concluded by November 30, 2018.

7.2 **Team Pairings**.

7.2.1 **Preliminary Rounds**. The pairings for the two preliminary rounds are randomly scheduled. All teams will argue each side of the case. (In regions allowing two teams per school, no two teams from the same school may argue against each other.)

7.2.2 **Semi-Final Round**. Semi-final pairings are determined by seeding (see Rule 6.4).

7.3 **Semi-Final Round**. All teams that are undefeated after the preliminary or tie-breaker rounds (see Rule 7.4) advance to the Semi-Final round. If fewer than four teams are undefeated, the necessary number of additional teams will advance based upon seeding (see Rule 6).

7.4 **Tie-Breaker Round.** If more than four teams are undefeated after the preliminary rounds, then a tie-breaker round must be held. All undefeated teams, and additional teams (based upon seeding) necessary to complete the bracket, will compete (e.g., if five undefeated teams remain, the sixth team would be the next highest seeded team). After this round, all teams still undefeated advance to the Semi-Final round – along with the necessary number of additional teams based upon seeding.

7.5 **Final Round.** The two prevailing teams of the Semi-Final round advance to the Final Round. The winner of the Final Round wins the Regional

Competition.

7.6 **Notices/Objections**. Regional Sponsors must provide teams with at least 30 days advance notice of (i) the time(s) and place(s) of the regional rounds, (ii) the pairings for the preliminary rounds and (iii) any Committee-approved Local Rules. Any objections must be forwarded to the Regional Sponsor and the Committee within 10 days after the notice is sent.

7.7 **Committee Notice**. Regional Sponsors must notify the Committee of the schools and competitors eligible to enter the National Finals within 5 business days after the end of the regional competition.

7.8 **Local Rules**. Regional Sponsors may modify Rule 7 procedures for conducting regional rounds (e.g., adding a quarter-final round) with the Committee's written consent. Regional Sponsors must seek Committee approval by submitting proposed revisions, i.e., local rules, in writing at least 60 days before oral arguments begin.

7.9 **Odd Number of Teams**. If an odd number of teams compete, the Regional Sponsor will randomly select one team to sit out during the first preliminary round and a different team to sit out during the second preliminary round. Those teams will then argue against each other.

Comments

Local Rules. Over the years, the National Moot Court Competition has developed sound regional preferences and traditions. With this in mind, Regional Sponsors may modify Rule 7 procedures for conducting regional rounds. The Committee must first approve any revisions ("Local Rules") in writing.

Annual Renewal. All Committee-approved Local Rules must be re-submitted for Committee approval before each year's competition. This re-submission allows the Committee to regularly review regional procedures to ensure they remain relevant and consistent with the Competition's mission.

Scheduling. When scheduling Regional Rounds, the Committee and Regional Sponsors should seek to avoid predictable conflicts by noting religious holidays and MPRE dates.

Supervision. We strongly recommend that the person with hands-on responsibility for running the regional rounds be a lawyer or faculty member.

Rule 8 – National Final Rounds

8.1 **General**. The National Finals will be held at the New York City Bar Association from January 28 to January 31, 2019. Twenty-eight law schools will

compete.

8.2 **Eligibility**. The first place team from each region is eligible to enter the National Finals. A team from a second law school is also eligible. That will be the second place team *unless* it is from the same school as the first place team, in which case the third place team (determined in accordance with Rule 6.4) is eligible to compete.

8.3 **Teams Pairings**.

8.3.1. **Preliminary Rounds**. The pairings for the two preliminary rounds are randomly scheduled. All teams will argue each side of the case and no teams from the same region will be paired against each other.

8.3.2 **Elimination Rounds**. After every team argues twice, the field will be narrowed to 16 teams. All undefeated teams will advance to the Octo-Finals. The necessary number of teams will be added to the field based upon seeding (see Rule 6.4). Pairings are determined by seeding. The top seeded team will argue against the 16th-seeded team, the 2nd-seeded team will argue against the 15th-seeded team, and so on, so that if the top two seeds advance through the Quarter-Final and Semi-Final Rounds, they will argue against each other during the final argument.

8.4 **Advancement**. In all rounds subsequent to the preliminary rounds, the winner of each round advances.

8.5 **Notice/Objections**. No later than January 11, 2019, the Committee will provide notice of the times and pairings for the two preliminary rounds. Any objections must be forwarded to the Committee within 10 days after the notice is sent.

Comment

Twenty-Eight Law Schools. Infrequently, and only in regions that allow two teams per law school to participate, the first place and runner-up team are from the same law school. Under Rule 8.2, *only one team per law school* may compete in the National Finals and thus, in those instances, the team from the second law school would be the third-place team. All law schools and competitors understand before any brief is served or any argument takes place that teams from twenty-eight different law schools will compete in the National Finals. The purpose of this Rule is to ensure fairness, since not every region permits two teams per school and, even in regions that allow two teams, some schools may choose to send only one team.

Disclosure of Seeding. At the National Final rounds, team seeding is not disclosed to the teams or coaches/faculty.

Rule 9 – No Assistance

9.1 **Briefs**. No team may receive help, including editing and proofreading, preparing its brief. Teams may, however, use widely available research tools, receive general clerical assistance (e.g., copying, printing, mailing, etc.) and discuss the Rules with faculty and other students.

9.2 **Preparing For Oral Argument**. Team members may receive assistance from non-team members in preparing for oral argument. Non-team members may provide any assistance except they shall not script arguments or do research on the team's behalf. Schools entering two teams may hold no more than three practice arguments between those two teams.

9.3 **Counsel's Table**. No team may receive help during oral arguments. Up to three competitors may sit at counsel's table. Once a round begins, competitors sitting at counsel's table may not communicate with non-competitors.

Comment

No Help. In this Competition, students are responsible for policing themselves. They each must certify their brief is their sole collective work product. They are also individually responsible for ensuring that their participation in practice arguments and related critiquing does not cross the line into improper assistance.

Rule 10 – No Scouting

Scouting of other teams is prohibited. No competitor or coach still participating may attend oral arguments of other teams or otherwise obtain information about them. Regional Sponsors may waive this Rule, however, to accommodate administrative concerns.

Rule 11 – Penalties

11.1 The Committee or Regional Sponsors may impose **any** penalty deemed reasonable and appropriate for failure to comply with these Rules and will keep records of penalties imposed for at least six months.

11.2 All briefs within a single region will receive uniform penalties for each type of violation. Penalties may be levied in whole or fractional points.

Comment

General. The Rules are designed to provide all teams and competitors with a level playing field. Penalties may be imposed when any member of a team fails to

follow the Rules. In evaluating potential penalties, it would be appropriate to consider the nature of the Rule violation, including whether any team received (or attempted to receive) any sort of advantage over any other team. A significant infraction could result in a penalty that determines the outcome of the Competition whereas a minor transgression might result in no sanction or a fraction of a point penalty.

Briefs. The vast majority of penalties are imposed in connection with teams' briefs. Brief-related violations that affect brief length or content (e.g., briefs containing too many words, inappropriate material included in an appendix, etc.) or that have a direct impact on other teams (e.g., delayed service, receiving help, etc.) may be taken more seriously than minor formatting errors (e.g., incorrect brief cover) that neither advantage the offending team nor disadvantage any other team. Note that penalties are not the same as deductions. For an explanation regarding deductions, please refer to the Comments for Rule 3.

Help. Perhaps no Rule violation is more serious than a team that receives assistance at any time during the Competition that violates Rule 9. Rule 1 specifies that everyone is expected to follow both the letter and spirit of the Rules and, therefore, all are encouraged to err on the side of caution regarding receiving assistance.

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The Committee is also grateful to the **American College of Trial Lawyers** for its continued support and commitment to our Competition.

We also thank all of our **Regional Sponsors**, staff, and volunteers, whose dedication and efforts are integral to the success of the National Moot Court Competition.

Sixty-Ninth Annual National Moot Court Competition

Regional Sponsors

Region	Sponsor
1	Roger Williams University
2	New York City Bar Association, National Moot Court Competition Committee
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4	Virginia Bar Association, Young Lawyers Section
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7	Faulkner Law
8	Marquette University
9	St. Louis University
10	South Texas College of Law Houston
11	
12	University of California Hastings
13	Gonzaga University
14	University of South Dakota
15	Chapman University

Appendix of Forms

FORM 1: BRIEF GRADER SCORE SHEET

FORM 2: BRIEF GRADING MASTER SCORE SHEET

FORM 3: BRIEF SCORES DISCLOSURE MEMORANDUM

FORM 4: ORAL ARGUMENT PANEL LIST

FORM 5: ORAL ARGUMENT TIME ALLOCATION SHEET

FORM 6: ORAL ARGUMENT SCORE SHEET (TEAM)

FORM 7: ORAL ARGUMENT SCORE SHEET (INDIVIDUAL)

FORM 8: COMPOSITE BRIEF/ORAL ARGUMENT SCORE SHEET

FORM 9: TALKING POINTS – COMPETITORS

FORM 10: TALKING POINTS – COURTROOM CLERKS

FORM 11: TALKING POINTS – JUDGES

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FORM 1: BRIEF GRADER SCORE SHEET

Please review the Bench Memorandum and assign a score between 80 and 100.
Scoring guideline: 95-100 (outstanding; exceptional quality); 90-95 (above average; exceeds requirements); 85-90 (average; meets requirements); 80-85 (below average; lacks basic elements); and 80-85 (well below average; deficient).

1. Basic Content **(enter up to 15 points)** _____
Evaluate contents. For example, is all content for a brief submitted to the U.S. Supreme Court present, in the correct order and properly formatted; are the cover page and tables accurate and complete; are citations consistent with the *Bluebook*; are the questions presented adequate; is the statement of facts effective and supportive without misstating or omitting material facts; is the summary of the argument (if included) detailed but concise; are argument headings effectively organized and descriptive; and does the conclusion call for appropriate relief?

2. Organization **(enter up to 15 points)** _____
Evaluate organizational structure. For example, is there a logical and persuasive sequence of arguments; does the brief address all issues in a straightforward manner; and is appropriate space devoted to each issue?

3. Substance **enter up to 35 points)** _____
Evaluate substance. For example, does the brief include, and appropriately treat, the leading legal authority; does the brief address and distinguish unfavorable precedent; are opponent's arguments anticipated and tackled; is comprehensive treatment afforded to all issues on appeal; and is there effectual use of the Record?

4. Effectiveness **(enter up to 35 points)** _____
Evaluate effectiveness of written presentation. For example, are the facts integrated into the legal analysis in a convincing and credible manner; does each argument heading, sentence and paragraph appropriately advance the arguments; are language and sentence structure grammatically correct, interesting, and suitable for a Supreme Court brief; and are the arguments compelling?

5. Deductions **(subtract up to 5 points)** _____
Deduct points for typographical and citation errors. Multiple misspellings or incorrect citations to the same word or resource are considered one error. Deduct no points for the first two errors of each type and, thereafter, deduct .5 for each mistake.

Total Brief Score (80 to 100 points) _____

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FORM 2: BRIEF GRADING MASTER SCORE SHEET

Team Number: _____

Grader #1 Score: _____

Grader #2 Score: _____

Grader #3 Score: _____

Grader #4 Score: _____

Grader #5 Score: _____

Grader #6 Score: _____

*Average the scores (the highest and lowest scores may be dropped).

Average Brief Score (prior to penalty assessment): _____

Total Penalty Points (to be subtracted from average brief score): _____

Official Brief Score: _____

Signature of Competition Official _____

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FORM 3: BRIEF SCORES DISCLOSURE MEMORANDUM

TO: [Region 2/National Finals] Competitors

FROM: _____, Brief Grading Team

DATE: _____

RE: Brief Scores

Teams participating in the [Region2/National Final] rounds of the 69th Annual National Moot Court Competition received the following brief scores:

Team Number	Brief Score
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	

Thank you for your participation.

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FORM 4: ORAL ARGUMENT PANEL LIST

DATE:_____ TIME:_____

1.	Team #___ and Team #___	Room
	[JUDGE'S NAMES]	[LOCATION]
2.	Team #___ and Team #___	Room
	[JUDGE'S NAMES]	[LOCATION]
3.	Team #___ and Team #___	Room
	[JUDGE'S NAMES]	[LOCATION]
4.	Team #___ and Team #___	Room
	[JUDGE'S NAMES]	[LOCATION]
5.	Team #___ and Team #___	Room
	[JUDGE'S NAMES]	[LOCATION]
6.	Team #___ and Team #___	Room
	[JUDGE'S NAMES]	[LOCATION]
7.	Team #___ and Team #___	Room
	[JUDGE'S NAMES]	[LOCATION]

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FORM 5: ORAL ARGUMENT TIME ALLOCATION SHEET

Team # _____ vs. Team # _____

Petitioner's Time	
	Time for Issue 1: _____ **Time for Issue 2:** _____ *Time Reserved for Rebuttal:* _____ **30 Minutes Total** Signature of Person Completing Form: _____

Respondent's Time	
	Time for Issue 1: _____ **Time for Issue 2:** _____ **30 Minutes Total** Signature of Person Completing Form: _____

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FORM 6: ORAL ARGUMENT SCORE SHEET (TEAM)

Date: ____ Time: ____

Which **team** did the best job in court today? (Circle your answer)

Petitioner **Respondent**

Please fill out individual scores as set forth below. The team with the highest point total must be the same team you circled above.

PETITIONER'S SCORES

Criteria	Points (Permissible range is 16-20)
Knowledge of Record	
Knowledge of Law	
Courtroom Demeanor	
Persuasiveness	
Extemporaneous	
	Total:

RESPONDENT'S SCORES

Criteria	Points (Permissible range is 16-20)
Knowledge of Record	
Knowledge of Law	
Courtroom Demeanor	
Persuasiveness	
Extemporaneous	
	Total:

Best Advocate in the Room (name):_____

Judge's Signature:_____

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FORM 7: ORAL ARGUMENT SCORE SHEET (INDIVIDUAL)

Date: ____ Time: ____

Which **team** did the best job in court today? (Circle your answer)

Petitioner **Respondent**

Please fill out individual scores as set forth below. The team with the highest point total must be the same team you circled above.

PETITIONER'S SCORES

Criteria	Participant 1 (Permissible range is 8-10)	Participant 2 (Permissible range is 8-10)	Team
Knowledge of			
Knowledge of			
Courtroom			
Persuasiveness			
Extemporaneous			
	Participant 1 Total:	Participant 2 Total:	Team Total:

RESPONDENT'S SCORES

Criteria	Participant 1 (Permissible range is 8-10)	Participant 2 (Permissible range is 8-10)	Team
Knowledge of			
Knowledge of			
Courtroom			
Persuasiveness			
Extemporaneous			
	Participant 1 Total:	Participant 2 Total:	Team Total:

Judge's Signature:_____

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FORM 8: COMPOSITE BRIEF/ORAL ARGUMENT SCORE SHEET

Date: ____ Time: ____

Petitioner's Scores

Law School Name: _____

Brief		*x .4*	
Oral Argument		*x .6*	
		Total	

Respondent's Scores

Law School Name: _____

Brief		*x .4*	
Oral Argument		*x .6*	
		Total	

Point Differential	

Winning Side School Name: _____

Losing Side School Name: _____

Reversal (Yes/No)? _____

Signature of Competition Official: _____

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FORM 9: TALKING POINTS – COMPETITORS

1. **Core Task**: to win oral argument through solid performance and untarnished professionalism.

2. **Follow through** on this task by:

- Presenting an in-depth understanding of the Record and law;
- Displaying a professional courtroom demeanor;
- Communicating persuasively and extemporaneously; and
- Following all Rules.

3. **Time Allocation Sheet**. Before every argument, complete a time allocation sheet. In all, each side has 30 minutes to make its case. You may ask judges for leave to extend time to conclude.

4. **Courtroom Clerks**. Clerks will give Supreme Court's traditional announcement, track argument time and deliver scores to Competition Officials.

5. **Scoring**. **Do not** ask judges for your scores.

6. **Oral Argument Procedure**. Petitioner makes its entire case (both issues, in order) then respondent argues (both issues, in order). Petitioner may reserve time for rebuttal.

7. **Judge Feedback**. Once the Committee or regional sponsor determines the winner, judges will announce the prevailing team and offer feedback.

8. **Potential Conflicts**. You may **not** identify your **school** during argument. Moreover, you should identify any potential conflicts before argument begins. Conflicts arise when judges teach or coach at a particular law school or otherwise are able to identify participants or their law schools. If a conflict occurs, the judge may be reassigned or the conflict may be waived with the consent of both the judge and the team.

9. **Faculty Advisors/Coaches**. The purpose of this Competition is to benefit our profession by helping participants develop the art of appellate advocacy. Faculty advisors and coaches are expected to maintain the highest levels of professionalism and set an example for all participants.

► Consider applying for Committee membership when you graduate. It is a rewarding experience on many levels.

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FORM 10: TALKING POINTS – COURTROOM CLERKS

1. **Core Task**: to make sure oral argument proceeds smoothly.

2. **Follow through** on this task by ensuring:

- Participants have completed a time allocation sheet;
- You accurately track time (ensure timer is working properly);
- Courtroom contains no items that may give one team any unfair advantage or identify competing law schools;
- Escort judges from their briefing room to the courtroom.

3. State **Cry of the Supreme Court** in two steps.

Step 1: Announce Justices to the audience by saying:

> "All Rise! The Honorable the Chief Justice and Associate Justices of the Supreme Court of the United States."

Step 2: As the Judges enter courtroom, announce:

> "O Yez! O Yez! O Yez! All persons having business before the honorable the Supreme Court of the United States are admonished to draw near and give their attention, for the Court is now sitting. God save the United States and this honorable Court."

4. **Track Time**. Once arguments begin, track time for each argument consistent with the time identified in the time allocation sheet. Overall, each team only gets **30** minutes total to argue. That's it. Judges may, however, extend time to allow a competitor to conclude when participants properly ask.

5. **Scoring**. At the end of arguments, clear the courtroom (including yourselves) to allow the judges to assign scores to each team. After the judges select scores, deliver the scores to Competition Officials. During Regional Rounds, you may remain in the scoring room until the total score is calculated and a winner is declared in order to verify the accuracy of the calculations. Then carry the results to the judges.

6. **Judge Feedback.** Call the courtroom to order. Judges will announce the prevailing team and offer feedback to participants.

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FORM 11: TALKING POINTS – JUDGES

1. **Task**: to decide the winner of oral argument. No ties!

2. **Scoring Criteria**. **Evaluate competitors' performances on the following criteria only**: *knowledge of the Record and law, courtroom demeanor, persuasiveness, and extemporaneous ability*. Under no circumstances may you evaluate competitors based on your opinion of the ultimate merits of the legal issues or on how you think a real court would decide this case.

3. **Point Differential**. Please deliberate with the others on your panel, then individually assign a score to each team in the range of 80-100 points. Please ensure that **total team scores** are in the **range of 80-100 points** *and* that they **comport with the following point differential guidance**. When argument quality is close, assign a difference of up to three points between the two teams (e.g. 96-95). When a clear difference exists between teams, assign a difference of between four to seven points (e.g. 96-90). Only when a significant difference exists should the spread be eight points or more (e.g. 96-86).

4. **Brief Grading**. All briefs have been graded. Overall team score is based on 40 percent for briefs and 60 percent for oral argument.

5. **Scores**. Please **do not** disclose your scores to competitors.

6. **Courtroom Clerks**. Clerks have been assigned to each courtroom. They will escort you to your room, give the Supreme Court's traditional announcement, track argument time, deliver your scores to Competition Officials and return with information concerning the winner of the round.

7. **Procedure**. Petitioner makes its entire case (both issues, in order) then respondent argues its case (both issues, in order). Petitioner may reserve time for rebuttal.

8. **Interaction**. Please engage all participants. You may extend time to allow participants to conclude their argument when properly requested.

9. **Feedback**. Once Competition Officials determine the winner, you will announce the prevailing team, and offer feedback. Occasionally, when the brief scores are factored in and cumulative scores are determined, the team with the higher oral argument score may ultimately lose the round.

10. **Conflicts**. Participants may **not** identify their schools during argument. You should identify any potential conflict ***before*** argument begins. Conflicts arise when you teach or coach at a particular law school or are otherwise able to identify the competitors or law schools you are judging. If a conflict occurs, you judge may be reassigned or the conflict may be waived with the consent of both you and both teams.