

# 2019-2020 Rules of the Competition

Delaware High School Mock Trial Competition

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**Leonard L. Williams Justice Center**



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## ***Rules of the Competition***

***(Revised September 2019)***

### **A. ADMINISTRATION**

#### **Rule 1.1. Rules**

All trials will be governed by the Rules of the Delaware High School Mock Trial Competition (“the Competition”) and the Delaware High School Mock Trial Rules of Evidence.

Questions or interpretations of these rules are within the discretion of the Mock Trial Committee of the Delaware Law Related Education Center (hereinafter “Committee”), whose decision is final.

#### **Rule 1.2. Code of Conduct**

The Rules of the Competition, as well as proper rules of courthouse and courtroom decorum and security, must be followed. The Committee possesses discretion to impose sanctions, including but not limited to disqualification, immediate eviction from the Competition, and forfeiture of all fees and awards (if applicable) for any misconduct occurring while a team is present for the Competition, for flagrant rule violations, and for breaches of decorum which affect the conduct of a trial or which impugn the reputation or integrity of any team, school, participant, court officer, judge or the mock trial program.

All members of each team must sign the enclosed Code of Ethical Conduct and must abide by the Code of Ethical Conduct for the duration of the trial. For the avoidance of doubt, “members of a team” include the participating students, the participating teacher coaches, and the participating attorney coaches. Each team must turn in the executed Code of Ethical Conduct to a designated representative of the Committee prior to the first round of the Competition. Failure to do so shall result in the imposition of sanctions, up to and including removal of individuals from the Competition site.

#### **Rule 1.3. Emergencies**

During a trial, the presiding judge shall have discretion to declare an emergency and adjourn the trial for a short period of time to address the emergency.

In the event of an emergency that would cause a team to be unable to continue a trial or to participate with less than six members, the team must notify the Committee as soon as is reasonably practical. If the Committee, or its designee(s), in its sole discretion, agrees that an emergency exists, the Committee, or its designee(s), shall declare an emergency and will decide whether the team will forfeit or may direct that the team take appropriate measures to continue any trial round with less than six members. A penalty may be assessed.

The Committee may, but does not have to, declare a forfeiture. If a forfeiture is declared, the forfeiting team will receive a loss, ballots totaling the average number of ballots received by the losing teams in that round (rounded to the nearest whole number), and points totaling the average number of points received by the losing teams in that round (rounded to the nearest whole number). The non-forfeiting team will receive a win, ballots totaling the average number of ballots received by the winning teams in that round (rounded to the nearest whole number), and points totaling the average number of points received by the winning teams in that round (rounded to the nearest whole number).

The Committee will make the final determinations regarding emergency, forfeiture, reduction of points, and/or advancement.

#### **Rule 1.4. Student Timekeepers**

(a) Each team is responsible for providing at least one student as an official timekeeper equipped with two stopwatches. In trial, each team is to use a set of "Time Remaining" cards with the following designations to signal time: 20:00, 15:00, 10:00, 5:00, 4:00, 3:00, 2:00, 1:00, 0:40, 0:20, and "STOP". Modification of intervals is not permitted. The Committee will provide "Time Remaining" cards and timekeeper instruction materials. Timekeepers must use the "Time Remaining" cards provided by the Committee and NO others.

(b) Any student who will keep time, including any witness who will keep time in accordance with Rule 3.2 is required to attend the scheduled on-site timekeeper orientation, which will be held on the Friday morning of the first day of Competition before Competition rounds begin. If a team does not send an official timekeeper to the required orientation meeting, that team will defer to its opponents' official timekeepers in all rounds of the Competition.

(c) If a team desires to assign more than one student to the timekeeper role, then all students who will be assigned to the timekeeper role must attend the timekeeper orientation. The team's official student timekeeper will keep time for both sides during all Competition rounds.

#### **Rule 1.5. No Practicing in State or Federal Courtrooms**

No team shall conduct practices in any state or federal courtroom. In other words, no team shall practice in a courtroom of the Delaware Supreme Court, the Delaware Court of Chancery, the Delaware Superior Court, the Delaware Court of Common Pleas, the Delaware Justice of the Peace Court, the Delaware Family Court, the District of Delaware, or the District of Delaware Bankruptcy Court.

A team found to have violated this rule **shall** be punished, and the appropriate punishment shall be in the sole discretion of the Committee. Punishments may include, but are not limited to, disqualification of the coaching staff, an automatic reduction in points for one or more rounds of the Competition, or disqualification of an entire team.

For the avoidance of doubt, to the extent a team has permission to practice in another area of a Courthouse, such as a conference room, this rule does not bar that team from practicing in that other area. Additionally, this rule does not bar the winner of the state competition from practicing in courtrooms, to the extent that team otherwise has permission, from the date of winning the state competition until leaving for the national competition.

## **B. THE PROBLEM**

### **Rule 2.1. The Problem**

The problem will be a fact pattern which may contain any or all of the following: statement of facts, indictment, stipulations, witness statements/affidavits, jury charges, and exhibits. Stipulations may not be disputed at trial. Witness statements may not be altered.

The problem shall consist of three witnesses per side, all of whom shall have names and characteristics that would allow them to be played by either males or females. All three of the witnesses must be called.

### **Rule 2.2. Witnesses Bound by Statements**

Each witness is bound by the facts contained in his/her own witness statement, the Statement of Facts, if present, and/or any necessary documentation relevant to his/her testimony. Fair extrapolations may be allowed, provided reasonable inference may be made from the witness' statement. If, in direct examination, an attorney asks a question which calls for extrapolated information pivotal to the facts at issue, the information is subject to objection under Rule 2.3, "unfair extrapolation."

A witness is not bound by facts contained in other witness statements.

### **Rule 2.3. Unfair Extrapolation**

A fair extrapolation is one that is neutral. Unfair extrapolations advance one side of the case or the other. Unfair extrapolations are best attacked through impeachment and closing arguments and are to be dealt with in the course of the trial.

If a witness is asked information not contained in the witness' statement, the answer must be consistent with the statement and may not materially affect the witness' testimony or any substantive issue of the case.

Attorneys for the opposing team may refer to Rule 2.3 in a special objection, such as "unfair extrapolation" or "This information is beyond the scope of the statement of facts."

Possible rulings by a judge include:

- a) No extrapolation has occurred;

- b) An unfair extrapolation has occurred;
- c) The extrapolation was fair; or
- d) Ruling is taken under advisement.

The decision of the presiding judge regarding extrapolations or evidentiary matters is final.

When an attorney objects to an extrapolation, the judge will rule in open court to clarify the course of further proceedings.

#### **Rule 2.4. Gender of Witnesses**

All witnesses are gender neutral. Personal pronoun changes in witness statements indicating gender of the characters may be made. Any student may portray the role of any witness of either gender.

#### **Rule 2.5. Voir Dire**

Voir dire examination of a witness is not permitted.

### **C. TEAMS**

#### **Rule 3.1. Team Eligibility**

1. No institution may field more than one team, except as permitted by this rule.
2. Approximately two (2) months in advance of the Competition, the Committee shall ask schools registered for the Competition whether they have interest in fielding a B team, and if more than one school volunteers, the B team will be picked by random draw. A B team is defined as a complete team of students that would, if from an institution not already competing, be eligible to compete in the Competition.
3. If, two (2) weeks prior to the start of the Competition, no school has volunteered a B team, the Committee may, at its sole discretion, seek student volunteers to form a “bye-buster” team. Any team with more than six students is encouraged to volunteer those students not competing on both sides of the Competition to potentially participate in the “bye-buster” team. Schools volunteering students should provide the student’s name.

The Committee encourages all schools with sufficient students to volunteer students to compete in the “bye-buster” team. Although much of the material will have to be improvised, it is a good no-pressure way for students to gain additional experience and/or to have roles they do not normally have a chance to play.

If there are sufficient volunteers, the Committee will form a “bye-buster” team. The “bye-buster” team will consist of six (6) to twelve (12) student volunteers who are active members of their school’s mock trial team but are not actively on their school’s competition team (i.e., they

are not assigned to participate as an attorney or witness on their school's "A" team). If more than twelve (12) students volunteer for the team, the team membership will be by lottery.

The Committee will designate at least two attorneys who have coaching experience who will oversee the students participating in the "bye-buster" team on the days of the competition. To the extent possible, students on the "bye-buster" team will not compete against their own institution and students for each side of the case will be as consistent as possible.

All members of the "bye-buster" team are prohibited from disclosing any school affiliation to any judge or other competitor before or during the competition.

For pairing and power matching, the "bye-buster" team will always be assumed to have a win/loss record of 0 and a ballot record of 0 (i.e., will always be in the lowest bracket after the first round). However, for purposes of calculating strength of opponent, the "bye-buster" team's actual win-loss record will be used. The "bye-buster" team will always be ranked last and will not compete in the Championship Round, however, students volunteering to serve on a "bye-buster" team are eligible for individual awards based on their team participation (i.e., outstanding advocate and outstanding witness). Students who compete on the "bye-buster" team will be identified at the Awards Banquet.

For the avoidance of doubt, students selected to participate in the "bye-buster" team are prohibited from providing information about (i) any team that has a member on the "bye-buster" team, or (2) any team against whom the "bye-buster" competed to members of their "home" team. Such communications are a violation of Mock Trial Rule 4.13.

4. Whether there is an odd number of teams in the field shall be officially decided on the first day of the Competition. Although the Committee may notify the designated B team and/or the competing teams of the number of teams signed-up to participate in advance of the Competition, that is merely a courtesy and **not** a guarantee that the B team or "bye-buster" team shall compete. For the B team or "bye-buster" team to compete, there must be an odd number of teams at the Competition, which sometimes is not known until the day the Competition begins.

### **Rule 3.2. Team Composition**

Teams consist of at least 6 and up to 14 official members assigned to attorney, witness and timekeeper roles representing the prosecution/plaintiff and defense/defendant sides. **Only six** of the official members will participate in any given round as attorneys and witnesses. (See Rule 3.3 for further explanation referring to team participation.) Additionally, a person will be designated as an official timekeeper. The official timekeeper is included as one of the official team members. The official timekeeper must be a student. The team's official student timekeeper will keep time for both sides during all Competition rounds. If a team has only 6 official members, it must designate two or more of its witnesses to serve as timekeepers in each round. Each timekeeper must meet the requirements of Rule 1.4 as the team's timekeeper.

At no time may any team for any reason substitute other persons for official team members. The Team Roster will become official at the time of onsite registration. A team can change its lineup before any round of the Competition so long as the participants come from the official team members.

**Please be advised that the National High School Mock Trial Competition only permits teams of between 6 and 9 official members. See NHSMTTC Rule 3.2. Accordingly, the state champion may have to cut official team members if it had more than 9 members during the state competition. The official timekeeper is included within the 9 members of the team.**

### **Rule 3.3. Team Presentation**

Teams must present both the Prosecution/Plaintiff and Defense/Defendant sides of the case, using six team members in each trial round. For each trial round, teams shall use three students as attorneys and three students as witnesses.

### **Rule 3.4. Team Duties**

Team members are to evenly divide their duties. **Each of the three attorneys will conduct one direct examination and one cross-examination;** in addition, one will present the opening statements and another will present the closing arguments. In other words, the eight attorney duties for each team will be divided as follows:

1. Opening Statements
2. Direct Examination of Witness #1
3. Direct Examination of Witness #2
4. Direct Examination of Witness #3
5. Cross Examination of Witness #1
6. Cross Examination of Witness #2
7. Cross Examination of Witness #3
8. Closing Argument (including Rebuttal) [See Rule 4.5]

Opening Statements must be given by both sides at the beginning of the trial.

The attorney who examines a particular witness on direct examination is the only person who may make the objections to the opposing attorney's questions of that witness' cross-examination, and the attorney who cross-examines a witness will be the only one permitted to make objections during the direct examination of that witness.

**An attorney may not do the opening and the closing in the same trial.**

Each team **must** call three witnesses. Witnesses must be called only by their own team during their case-in-chief and must be examined by both sides. Witnesses may not be recalled by either side.

A hypothetical structure for the trial is provided below for illustrative purposes only and is not meant to indicate that a specific attorney or witness must go in a specific order or must complete a particular part. It is meant only to be illustrative of the roles and the general division of labor within the team. PAX and DAX stand for Plaintiff/Prosecution Attorney and Defense/Defendant Attorney where the x is a numerical designation for each attorney. PWx and DWx stand for Plaintiff/Prosecution Witness and Defense/Defendant Witness where the x is a numerical designation for each witness.

1. Pre-trial matters (PA1 and DA1)
2. Plaintiff/Prosecution opening statement (PA1)
3. Defense/Defendant opening statement (DA1)
4. Direct and Cross-examination of PW1 (PA1 and DA1)
5. Direct and Cross-examination of PW2 (PA2 and DA2)
6. Direct and Cross-examination of PW3 (PA3 and DA3)
7. Direct and Cross-examination of DW1 (DA1 and PA1)
8. Direct and Cross-examination of DW2 (DA2 and PA2)
9. Direct and Cross-examination of DW3 (DA3 and PA3)
10. Plaintiff/Prosecution closing argument (PA2)
11. Defense/Defendant closing argument (DA2)
12. Plaintiff/Prosecution closing argument rebuttal (PA2)

**Rule 3.5. Team Roster Form**

Copies of the Team Roster Form must be completed and duplicated by each team prior to arrival at the courtroom for each round of competition. Teams must be identified by the code assigned at registration. No information identifying team origin should appear on the form.

As required in the Code of Ethical Conduct, completed team rosters must be provided with the Code of Ethical Conduct at team check-in on the Friday morning of the Competition before the first round.

Before beginning a trial, the teams must exchange copies of the Team Roster Form. **The Form should identify the gender of each witness so that references to such parties will be made in the proper gender.** Copies of the Team Roster Form should also be made available to the judging panel and presiding judge before each round. Teams shall not knowingly disclose their place of origin to any member of the judging panel or to the presiding judge.

### **Rule 3.6. Timeliness of Attendance at Trial**

Each team is expected to treat the Competition as if it were a real trial, including exhibiting the proper respect for the Court's time. Teams should plan to arrive before the Competition and should plan any travel accordingly. To the extent that a team is more than five (5) minutes late to the start of a Competition day, the Committee may, at its sole discretion, determine that the tardy team has forfeited the round for failure to appear in Court.

## **D. THE TRIAL**

### **Rule 4.1. Courtroom Setting**

The Plaintiff/Prosecution team shall be seated closest to the jury box. No team shall rearrange the courtroom without prior permission of the judge or the Committee.

### **Rule 4.2. Stipulations**

Stipulations shall be considered part of the record and already admitted into evidence.

### **Rule 4.3. Reading into the Record not Permitted**

Stipulations, the Statement of the Case, the indictment, or the Charge to the Jury will not be read into the record.

### **Rule 4.4. Swearing of Witnesses**

The following oath will be used before questioning begins:

“Do you promise that the testimony you are about to give will faithfully and truthfully conform to the facts and rules of the mock trial competition?”

The above oath will be conducted by (a) the presiding judge or (b) a bailiff. The oath of all six witnesses will occur simultaneously at the beginning of each mock trial.

#### **Rule 4.5. Trial Sequence and Time Limits**

The trial sequence and time limits are as follows:

1. Opening Statement (5 minutes per side)
2. Direct and Redirect (optional) Examination. (25 minutes per side)
3. Cross and Re-cross (optional) Examination. (20 minutes per side)
4. Closing Argument (5 minutes per side)

The Prosecution/Plaintiff gives the opening statement first. The Prosecution/Plaintiff gives the closing argument first; the Prosecution/Plaintiff may reserve a portion of its closing time for a rebuttal. The Prosecution/Plaintiff's rebuttal is limited to the scope of the Defense's closing argument.

Attorneys are not required to use the entire time allotted to each part of the trial. Time remaining in one part of the trial may not be transferred to another part of the trial.

#### **Rule 4.6. Timekeeping**

1. Each team is required to provide one or more students who will serve as the official timekeeper for that team. Timekeeper(s) must meet the requirements of Rule 1.4. Timekeepers are responsible for fairly and accurately keeping and reporting the time during the trial presentation and during any disputes under Rule 6.2. Timekeepers are not to communicate with their respective teams during the course of the trial presentation, recesses, or during any dispute procedure, except to display the time remaining cards and indicate (as directed by the presiding judge) how much time is remaining during a particular part of the trial.

2. Time limits are mandatory and will be enforced. Time runs from the beginning of the witness examination, opening statement, or closing argument until its conclusion. Introduction of counsel or witnesses prior to the opening statement shall not be included in the time allotted for opening statements. However, if counsel or witnesses are introduced once the opening statement has commenced, such time shall be included in the time allotted for the opening statement. **Time stops only for objections, questioning from the judge, or administering the oath. Time does not stop for introduction of exhibits.**

3. Timekeepers should display the applicable "Time Remaining" cards simultaneously. At the end of each task during the trial presentation (i.e. at the end of each opening, at the end each witness examination, at the end of each cross examination and at the end of each closing argument) if there is more than a 15 second discrepancy between the teams' timekeepers, the timekeepers must notify the presiding judge of the discrepancy. The presiding judge will then rule on the discrepancy, the timekeepers will synchronize their stopwatches accordingly and the trial will continue. Any discrepancies between timekeepers less than 15

seconds will not be considered. No time disputes will be entertained after the trial concludes. The decisions of the presiding judge regarding the resolution of time disputes are final.

#### **Rule 4.7. Time Extensions and Scoring**

The presiding judge has sole discretion to grant time extensions, and such extensions shall be for not more than five (5) minutes. If time has expired and an attorney continues without permission from the Court, the scoring judges may determine individually whether or not to discount points in a category because of over-runs in time, including over-runs allowed by the presiding judge.

The presiding judge has sole discretion to penalize a team for excessive objections and/or witnesses who are non-responsive and who attempt to “run the clock” on the cross-examining attorney. For example, a presiding judge may remove time from a team’s direct examination to account for time wasted on excessive objections. For further example, a presiding judge may also add time to a cross-examination for excessive non-responsive answers, where such time shall count against the non-responsive witness’s teams direct examination time (e.g., three minutes removed from Plaintiffs’ direct time and credited to Defendant’s cross time). **This rule does not abrogate a team’s right to object to non-responsive answers on cross-examination, but any time penalty outlined above is within the sole discretion of the presiding judge and may not be requested by either team.**

If a team believes that there is good cause for it to be granted a time extension for each of the rounds in the Competition, that team may submit a request to the Committee. The request must set forth the reason for the extension and must be received no later than fourteen (14) days before the start of the Competition. On timely request, the Committee will review the request, and may, for good cause shown, modify the time limits for the requesting team. To the extent time limits are modified, the Committee will notify all competing teams at least one (1) week prior to the Competition.

#### **Rule 4.8. Motions Prohibited**

The only motion permissible is one requesting the judge to strike testimony following a successful objection to its admission.

Teams are not allowed to raise hypothetical or constructive motions, i.e., “I am not allowed to make a motion, but if I were, I would . . .” is strictly prohibited.

#### **Rule 4.9. Sequestration**

Teams may not invoke the rule of sequestration.

#### **Rule 4.10. Bench Conferences**

Bench conferences may be granted at the discretion of the presiding judge, but should be made from the counsel table in the educational interest of handling all matters in open court.

#### **Rule 4.11. Supplemental Material: Accents, Costuming, Exhibits**

Teams may refer only to materials included in the trial packet. No illustrative aids of any kind may be used, unless provided in the case packet. No enlargements of the case materials will be permitted, unless provided by the Committee. **Absolutely no props or costumes are permitted unless authorized specifically in the case materials.** Costuming is defined as hairstyles, clothing, accessories, and make-up which are case-specific. An accent is not considered costuming.

The student playing the witness is allowed to act though she/he is afflicted with any condition, deformity, or disability described in the affidavits. Under no circumstances is the opposing team permitted to question the existence of such conditions based on the fact that the student playing the witness does not actually have them. While the opposing team may cross examine the witness on the extent of the condition based on information provided in the affidavits, the opposing team may not challenge the witness to prove the existence of the condition by asking him/her to show it to the jury.

The only documents which the teams may present to the presiding judge or scoring panel are the individual exhibits as they are introduced into evidence and the team roster forms. No roster forms may be altered except to provide the information requested. No exhibits may be modified before trial, but attorneys and witnesses may mark exhibits during direct or cross examination. Such marked documents may be used as demonstrative exhibits during the trial and during the closing arguments, but may not be entered into evidence. If a team wishes to mark an exhibit entered by the opposing team, it must substitute its own clean copy of that exhibit for this purpose before any markings are made. Exhibit notebooks are not to be provided to the presiding judge or scoring panel. Unless provided by the Committee, name tags or name plates at counsel table are not permitted.

#### **Rule 4.12. Trial Communication**

Coaches, teachers, alternates, and observers shall not talk to, signal, communicate with, or coach their teams during trial. Coaches, teachers, alternates, and observers shall not talk to, signal, communicate with, or attempt to communicate with the scoring judges, presiding judge, or bailiff during trial. This rule remains in force during any emergency recess which may occur. Team members may, among themselves, communicate during the trial; however, no disruptive communication is allowed. Signaling of time by the teams' timekeepers shall not be considered a violation of this rule.

Coaches, teachers, alternates and observers must remain outside the bar in the spectator section of the courtroom during the trial. Only team members participating in this round may sit inside the bar and communicate with each other.

For purposes of this rule, “during trial” means from the time that the scoring judges and presiding judge appear in the Courtroom until both parties have rested and the scoring judges and presiding judge have left the Courtroom to deliberate. For the avoidance of doubt, “during trial”

includes any recess for the parties to prepare for closing arguments. Any violation of this rule will result in the immediate expulsion of the individual violating the rule from the Competition site for the remainder of the Competition.

#### **Rule 4.13. Scouting and Viewing Trials**

Prior to the final round, team members, alternates, attorney coaches, teacher coaches, and any other persons directly associated with a mock trial team, except for those authorized by the Committee, are not allowed to view other teams' performances in the Competition, so long as their team remains in the Competition. No person shall display anything that identifies their place of origin while in the court room.

Team members and individuals associated with competing teams are prohibited from contacting teachers, students, and attorney coaches from any other team in any manner in an effort to obtain information about a competing opponent. This prohibition is read and will be construed broadly, and it includes but is not limited to, any form of personal communication, voice/telephone communication, and/or electronic communication, including electronic mail, instant messaging, text messaging, and communication or messaging through social media sites.

It is not a violation of this rule for teams to participate voluntarily in practice or scrimmage matches in advance of the Competition. It is a violation of this rule for teams to seek information about opposing teams in rounds of the Competition from individuals who observed such scrimmages, including members of the teams competing in that scrimmage.

To the extent that a team or its members make information publicly available that bears on that team's strategy or other issues that would normally constitute the object of scouting, it shall not constitute scouting for another team to view these materials. For example, if members of a team post videos of the team's performance in exhibitions or scrimmages to the public internet; create publicly-accessible online materials such as scripts or flash cards on an internet site; or post to publicly-accessible social media information about their performance, strategy, or other matters, it is not scouting for a potential opponent of that team to view that material. Teams are strongly discouraged from actively seeking out information of this kind, and it may constitute scouting for a member of a competing team to actively seek on social media information posted about a future opponent, such as social media information posted by members of teams that opponent faced in prior rounds.

#### **Rule 4.14. Videotaping/Photography**

Any team has the option to refuse participation in videotaping, tape recording, and still photography by opposing teams. In the Championship Round, a team may not refuse to be videotaped, tape recorded, live streamed, or photographed by the host organization.

Media coverage will be allowed. Media representative authorized by the Committee will wear identification badges.

#### **Rule 4.15. Jury Trial**

The case will be tried to a jury; arguments are to be made to judge and jury. Teams may address the scoring judges as the jury.

#### **Rule 4.16. Standing During Trial**

Unless excused by the judge, attorneys will stand while giving opening and closing statements, during direct and cross examinations, and for all objections.

#### **Rule 4.17. Objections During Opening Statement/Closing Statement**

No objections may be raised during opening statements or during closing arguments.

If a team believes an objection would have been proper during the opposing team's opening statement or closing argument, one of its attorneys may, following the opening statement or closing argument, stand and object and give a reason. The opposing team is allowed a response. The presiding judge shall not rule on this "objection."

Presiding and scoring judges will weigh the "objection" individually.

#### **Rule 4.18. Objections**

- 1. Argumentative Questions:** An attorney shall not ask argumentative questions.
- 2. Lack of Proper Predicate/Foundation:** Attorneys shall lay a proper foundation prior to moving the admission of evidence. After the exhibit has been offered into evidence, the exhibit may still be objected to on other grounds.
- 3. Assuming Facts Not in Evidence:** Attorneys may not ask a question that assumes unproved facts. However, an expert witness may be asked a question based upon stated assumptions, the truth of which is reasonably supported by evidence (sometimes called a "hypothetical question").
- 4. Questions Calling for Narrative or General Answer:** Questions must be stated so as to call for a specific answer. (Example of improper question: "Tell us what you know about this case.")
- 5. Non-Responsive Answer:** A witness' answer is objectionable if it fails to respond to the question asked.
- 6. Repetition:** Questions designed to elicit the same testimony or evidence previously presented in its entirety are improper if merely offered as a repetition of the same testimony or evidence from the same or similar source.

Teams are not precluded from raising additional objections which are available under the *Delaware High School Mock Trial Rules of Evidence*.

#### **Rule 4.19. Reserved**

#### **Rule 4.20. Procedure for Introduction of Exhibits**

As an example, the following steps effectively introduce evidence:

1. All evidence will be pre-marked as exhibits.
2. Ask for permission to approach the bench. “Your honor, may I approach the witness with what has been marked as Exhibit No. \_\_\_?”
3. Show the exhibit to opposing counsel.
4. Ask the witness a series of questions that are offered for proof of the admissibility of the exhibit. These questions lay the foundation or predicate for admissibility, including questions of the relevance and materiality of the exhibit.
5. Offer the exhibit into evidence. “Your Honor we offer Exhibit No. \_\_\_ into evidence.”
6. Court: Is there an objection?
7. Opposing Counsel: “No, Your Honor” or “Yes, Your Honor.” If the response is “yes,” the objection will be stated for the record. Court: “Is there any response to the objection?”
8. Court: “Exhibit No. \_\_\_ (is/is not) admitted. If admitted, questions on content may be asked.

#### **Rule 4.21. Use of Notes**

Attorneys may use notes in presenting their cases. Witnesses are not permitted to use notes while testifying during the trial. Team members involved in that trial may consult with each other at counsel table verbally or through the use of notes. The use of laptops or other electronic devices is prohibited.

#### **Rule 4.22. Redirect/Recross**

Redirect and Recross examinations are permitted, provided they conform to the restrictions in Rule 611(d) in the Delaware High School Mock Trial Rules of Evidence.

### **Rule 4.23. Scope of Closing Arguments**

Closing Arguments must be based on the actual evidence and testimony presented during the trial.

### **Rule 4.24. The Critique**

The judging panel is allowed ten (10) minutes for debriefing. Presiding judges are to limit critique sessions to a combined total of ten (10) minutes. Judges shall not make a ruling on the legal merits of the trial. Judges may not inform the students of score sheet results.

### **Rule 4.25. Offers of Proof**

No offers of proof may be requested or tendered.

## **E. JUDGING AND TEAM ADVANCEMENT**

### **Rule 5.1. Finality of Decisions**

All decisions of the judging panel are FINAL.

### **Rule 5.2 Composition of Judging Panels**

The judging panel will consist of at least three individuals. The composition of the judging panel and the role of the presiding judge will be at the discretion of the Committee, with the same format used throughout the Competition, as follows:

1. One presiding judge with the two scoring judges (all three of whom complete score sheets);
2. One presiding judge and two scoring judges (scoring judges only complete score sheets);
3. One presiding judge and two scoring judges (scoring judges only complete score sheets and presiding judge completes a form which selects only the winner and does not assign point totals for either team);

The scoring judges may be persons with substantial mock trial coaching or scoring experience or attorneys. Each scoring panel shall include at least one attorney. The presiding judge shall be an attorney.

At the discretion of the Committee, the rounds may have a larger panel. All presiding and scoring judges receive the mock trial manual, a memorandum outlining the case, orientation materials, and a briefing.

In the event of an emergency (i.e., sudden illness, etc.), if a judging panel member must leave the courtroom, the presiding judge will call for a brief recess, assess whether the judging panel member will be able to return in a reasonably short period of time, and then resume the proceedings upon the panel member's return to the courtroom. If the panel member is unable to return to the courtroom, the dispute resolution committee must be informed. Once the panel composition is adjusted by this committee to best meet the requirements of the rules and the round should continue. During any recess under this rule, the teams, whenever possible, should remain seated in their appropriate positions within the courtroom until the round resumes.

The Committee recognizes that conflicts of interest between judges and participants may arise. The Competition requires extensive volunteer support from the Delaware Bar and community and it is assumed that all participants will make every effort to identify potential conflicts. The sole discretion for determining whether a judicial conflict exists is vested in the Committee or its designee. The following criteria will be applied in determining whether a presiding judge or scoring judge will be disqualified, and apply equally to both types of judges:

1. A judge shall be disqualified from participating in a trial when the judge has a conflict with either team involved in the trial. Examples of a mandatory disqualifying conflict include where the judge is a coach of one of the teams or is a relative or close friend of a competing student or one of the team's coaches.

2. A judge may be excused if that judge or his or her family members attended one of the schools competing, a juror has a personal friendship with a team advisor or parent, or a judge previously scored a trial involving one of the teams competing on the same side and in the current Competition. However, in the case of such potential conflicts, it is within the discretion of the Committee or its designee to determine whether such a conflict exists. In addition, reasonable effort will be made by the Committee or its designee to prevent a judge who was a coach at a particular competitor school from judging a round involving that school, with the understanding that if that is not reasonably possible, the Committee or its designee may allow that judge to participate in a trial, taking into consideration his or her experience as a judge and whether the judge is familiar with either team involved in the trial.

3. A situation where the judge recognizes a team advisor or student/parent through professional acquaintance or through participating in mock trials in years previous will not ordinarily be considered to be a conflict, unless there is a closer relationship of the kind that would prevent the judge from fairly scoring a round. Mere recognition of a team or its members is not a basis for disqualification absent a more significant conflict.

A judge who becomes aware of a conflict prior to or during a trial should be excused from the panel as soon as possible. If the judge was not aware of the conflict until after he or she has completed the scoresheet, it is left to the discretion of the Committee to determine whether to disqualify the juror.

The Committee will take reasonable steps to avoid any conflict between judges, teams, coaches, and coordinators. In all such cases, however, the Committee or its designee reserves the right to permit a judge to participate in a trial if there are no reasonable alternatives.

### **Rule 5.3. Score Sheets/Ballots**

The term “ballot” will refer to the decision made by a scoring judge as to which team made the best presentation in the round. The term “score sheet” is used in reference to the form on which speaker and team points are recorded. Score sheets are to be completed individually by the scoring judges. Scoring judges are not bound by the rulings of the presiding judge. The team that earns the highest points on an individual judge's score sheet is the winner of that ballot. The team that receives the majority of the ballots wins the round. The ballot votes determine the win/loss record of the team for power-matching and ranking purposes. While the judging panel may deliberate on any special awards (i.e., Outstanding Attorney/Witness) the judging panel should not deliberate on individual scores.

### **Rule 5.4 Completion of Score Sheets**

Each scoring judge shall record a number of points (1-10) for each presentation of the trial. If there is a team presentation score on the ballot a number between 1 and 10 needs to be placed in this box. At the end of the trial, each scoring judge shall total the sum of each team's individual points, place this sum I in the **Total Points** box, and enter the team (“P” for prosecution/plaintiff of “D” for defense/defendant) with the higher total number of points in the tie-breaker box. **NO TIE IS ALLOWED IN THE TOTAL POINTS BOXES.**

**In the event of a mathematical error in tabulation by the scoring judges which, when corrected, results in a tie in the Total Points boxes, the tie-breaker box shall determine award of the ballot.**

### **Rule 5.5. Team Advancement**

All teams will compete in four preliminary rounds. Following the completion of the four preliminary rounds, teams will be ranked based on the following criteria in the order listed:

1. Win/Loss Record—equals the number of rounds won or lost by a team;
2. Total Number of Ballots—equals the number of scoring judges' votes a team earned in preceding rounds;
3. Strength of Opponents—the total number of wins that each opponent has amassed over the competition;
4. Point Spread Against Opponents—the point spread is the difference between the total points earned by the team whose tie is being broken less the total points of that team's

opponent in each previous round; the greatest sum of these point spreads will break the tie in favor of the team with the largest cumulative point spread; and

5. Total Number of Points Accumulated in Each Round—the total number of points is the total number of cumulative points earned by a team.

The top two teams following the preliminary rounds will advance to the Championship Round.

### **Rule 5.6. Power Matching/Seeding**

For the first round of the Competition, the Committee shall make a good faith effort to achieve approximate parity between the pool of prosecution/plaintiff teams as a whole and the pool of defense teams as a whole. For the 2018-2019 season, this approximate parity will be achieved by taking into account a team's official final standing in the prior season. For example, if the first place team from last season is placed among the pool of prosecution/plaintiff teams, then the second place team will be placed among the school of defense teams for the first round. If a team did not compete in the prior season, the Committee, at its sole discretion, will assign that team to a pool. Once the pool of prosecution/plaintiff teams and the pool of defense teams are created, a random method of selection will determine opponents in the first round. In the second round, teams will present the opposite side of the case than that which they presented in the first round. With this side constraint, a power-match system will determine opponents for the second round. For all other rounds, a power match system shall also be used. The two teams emerging with the strongest record as determined by Rule 5.5 from the preliminary rounds will advance to the final round. The championship round winner will be determined by ballots from the championship round only.

Power matching will provide that:

1. Pairings for the first round will be at random (except that the pools for prosecution/plaintiff teams and defense teams will be selected by the method described above before the random pairing of teams);

2. Except in the case of an unforeseen emergency, in the second round, teams shall switch sides;

3. All teams are guaranteed to present each side of the case at least once;

4. For Rounds 3 and 4, brackets will be determined by win/loss record. Sorting within brackets will be determined in the following order: (1) win/loss record; (2) ballots; (3) strength of opponent (for pairings for rounds 3 and 4); (4) point spread; then (5) total points. The team with the highest number of ballots in the bracket will be matched with the team with the lowest number of ballots in the bracket; the next highest with the next lowest, and so on until all teams are paired;

5. For Round 2 only, because of the requirement that the teams present the opposite side of the case than that which they presented in Round 1, teams will be sorted by their required side of the case before the power matching described in item 4 is applied; by way of example the best one win/zero loss prosecution team shall play the worst one win/zero loss defense team;

6. If a bracket contains an odd number of teams, the team at the top of that bracket will be matched with the top team from the next lower bracket;

7. Teams will not meet the same opponent twice prior to the Round 4;

8. An A and B team from the same institution will not meet prior to the Championship Round. Whenever possible, when a team meets both the A and B team from the same institution the alignment of the second trial will be set up so the team plays the opposite side in the second trial.

9. To the greatest extent possible, teams will alternate side presentation in subsequent rounds. In the fourth round, in trials that will determine who will participate in the Championship Round (which is normally two or three trials), the Committee shall whenever possible preserve bracket integrity even if it means one or more teams in those rounds must present a side of the case for a third time. **Teams are not guaranteed that they will present both sides twice.**

#### **Rule 5.7. Selection of Sides for Championship Round**

In determining which team will represent which side in the Championship Round, the following procedure shall be used:

1. The team with the letter/numerical code which comes first alphabetically (deleted) will be considered the “Designated Team.”

2. The coin will be tossed by a designee of the host state coordinator.

3. If the coin comes up heads, the Designated Team shall represent the plaintiff/prosecution in the Championship Round. If the coin comes up tails, the Designated Team shall represent the defendant.

If, however, the teams competing in the Championship Round have met in a prior round, the teams may, by mutual agreement, agree to hold the above procedure in abeyance and agree to present the side of the case opposite from that presented in the earlier round. Any such agreement must be mutual and must occur before the coin toss.

#### **Rule 5.8. Odd Number of Teams Participating in Championship**

It is the intent of the Committee to avoid the necessity of a “bye” round whenever possible. In the event of a circumstance resulting in an odd number of competing teams that is not remedied under Rule 3.1, the following procedure will apply:

a. The team drawing the “bye” (no opponent for a single trial round) in the preliminary rounds will, by default, receive a win and three ballots for that round. For the purpose of power-matching, the team will temporarily be given points equal to the average of its own points earned in its preceding trials. At the end of the preliminary rounds, the average from all three actual trial rounds participated in by the team will be used for the final points given for that team's bye round.

For example, a team receiving a bye in round three would receive three ballots and an average of its points earned in rounds one and two. At the end of the fourth round, however, the points actually awarded to the team for the bye round will be adjusted to take into consideration the fourth round performance of the team.

b. A team receiving a bye in round one will be awarded a win, three ballots and the average number of points for all round one winners, which total will be adjusted at the end of each round to reflect the actual average earned by that team.

## **F. DISPUTE RESOLUTION**

### **Rule 6.1. Disputes at the Conclusion of the Trial**

At the conclusion of each trial, after the presiding judge has excused the scoring panel, the presiding judge should inquire of the teams whether either team believes that a substantial violation of the rules occurred during the trial. The competing team members are permitted to consult for a time not to exceed two minutes with the team’s coaches before determining whether the team wishes to raise any substantial violations it believes occurred. **For the avoidance of doubt, any communication between the team’s coaches and any individual inside the bar outside of the times allowed in this rule is a violation of Mock Trial Rule 4.12.**

The process for determining that dispute shall be as follows:

1. One of the student members of one of the competing teams shall state that the team wishes to file a claim that a substantial rules violation occurred (a “dispute”).
2. The presiding judge will provide the student with a dispute form, on which the student will record in writing the nature of the dispute. No more than two minutes per team shall be allotted for this process. The student may communicate with his/her team members and coaches in preparing the form.
3. The team accused of a material rules violation shall have the opportunity to respond in writing. No more than two minutes per team shall be allotted for this process. The student may communicate with his/her team members and coaches in preparing the form.

4. One member of each team shall briefly present the team's position to the presiding judge. No more than two minutes per team shall be allotted for this explanation.
5. The presiding judge shall ask any questions and perform any additional investigation he or she believes appropriate.
6. If the dispute is denied, the presiding judge will record the reasons for this, announce his or her decision, retire to complete his or her score sheet (if applicable), and turn the dispute form in with the score sheets.
7. If the dispute is granted, that decision will be recorded in writing on the dispute form, with no further announcement. The dispute form will be turned in with the score sheets.
8. The presiding judge will advise the teams as to whether the dispute is granted or denied.

#### **Rule 6.2. Effect of Violation on Score**

If the presiding judge determines that a substantial rules violation has occurred, the judge will inform the scoring judges of the dispute and provide a summary of each team's argument. The scoring judges will consider the dispute before reaching their final decisions. The dispute may or may not affect the final decision, but the matter will be left to the discretion of the scoring judges.

#### **Rule 6.3 Disputes After the Conclusion of the Trial**

Disputes which occur outside the bar and which could not have been brought to the attention of the presiding judge may be brought by teacher or attorney-coaches exclusively. Such disputes must be made promptly to a trial coordinator or a member of the Committee, who will ask the complaining party to complete a dispute form. The form will be taken to the tournament's communication's center, whereupon a dispute resolution panel will (a) notify all pertinent parties; (b) allow time for a response, if appropriate; (c) conduct a hearing; and (d) rule on the charge.

The dispute resolution panel may notify the judging panel of the affected courtroom of the ruling on the charge or may assess an appropriate penalty.

The dispute resolution panel will be designated by the Committee.

## **G. COURTROOM ARTIST CONTEST**

### **Rule 7.1. Registration and Eligibility**

An institution may register up to two (2) students to compete in the Courtroom Artist Competition. For institutions that are fielding a team for the Competition, there is no additional cost for registering students to compete in the Courtroom Artist Competition.

The winner of the Courtroom Artist Competition will be invited to compete on behalf of Delaware in the National High School Mock Trial Contest Courtroom Artist Contest. In the event that the winner is unable to compete, the state coordinator may designate an alternate, provided that the alternate competed in the Delaware Courtroom Artist Contest.

Participants in the Courtroom Artist Contest are subject to all relevant Mock Trial Competition Rules, restrictions, and eligibility requirements and will be held to the Code of Ethical Conduct. Participants are bound by Rule of Competition 4.13 and are deemed to be a member of their institution's respective team for purposes of Rule of Competition 4.13. The Courtroom Artists will use the same team codes as the Mock Trial team from their institution and will accompany their Mock Trial team throughout the competition.

Participants in the Courtroom Artist Competition may serve in another role on their institution's mock trial team. To the extent that participants serve as members of a Mock Trial team, the Committee will reasonably attempt to ensure that the participant may compete in the Courtroom Artist Contest, but will not guarantee participation. Further, NHSMTC Rule 7.1 bars courtroom artists from serving in any other role on the state Mock Trial team. As such, the Committee strongly encourages those teams wishing to field courtroom artists to be mindful of these restrictions.

### **Rule 7.2. Trials/Trial Depiction**

Sketches must depict actual courtroom scenes observed by the courtroom artists during round three (3) of the competition. Courtroom artists may practice sketch in rounds one and two, but only in the courtroom where their respective teams are competing.

Sketches must be created and completed by the courtroom artist during the course of the round three trial in which the courtroom artist's Mock Trial team is also competing. At no time may a courtroom artist observe and/or sketch trials in which his or her Mock Trial team is not competing. Violation of this restriction will be a violation of Rule of Competition 4.13 and will result in the courtroom artist's expulsion from the Competition. Depending on the severity of the breach (i.e., if the courtroom artist shares information with his or her respective team), the Committee reserves the right to sanction the entire team, up to and including the Mock Trial team's disqualification from the Competition.

The presiding judge may allow courtroom artists to sit in the jury box, if a jury box is available. If the courtroom artist is allowed to sit in the jury box, it must be away from the scoring judges and must not place the courtroom artist in a position to view the scoring judges' score sheets.

The courtroom artist must wear his or her ID badge with his or her school code.

Once the trial begins, the courtroom artist may not move about the courtroom. The courtroom artists may not communicate, either verbally or non-verbally, with any member of the Mock Trial teams or any visitors in the courtroom during any trial round.

### **Rule 7.3. Submission Specifications**

Courtroom artists **must supply their own materials** and must follow the following parameters:

1. The art submission may be done in color or in black and white;
2. The drawing must be on paper of the dimensions 11" x 14", in a horizontal format;
3. The drawing may be done in any of the following mediums: color pencil, pen and ink, pastel, marker; no watercolors or paint are allowed;
4. The art submission must have the artist's name and team code placed on the back of the art; no signatures on the front of the submission are allowed.

Courtroom artists are responsible for ensuring that their work area is left neat and orderly with all trash disposed of in the appropriate trash receptacle.

Each artist submits one sketch to the presiding judge or courtroom liaison at the conclusion of round three of the trial.

### **Rule 7.4. Judging Components**

Sketches are evaluated and scored anonymously by a judge or judging team. The highest scored sketch will be named the Delaware Courtroom Artist Champion.

The results of the Delaware Courtroom Artist Competition will be announced at the Awards Banquet.

### **Rule 7.5. Release**

All courtroom artist submissions become the property of the Committee and may be used for any purpose it deems appropriate, including but not limited to reproduction and dissemination, with recognition to you the artist.

## **H. AWARDS AND THE AWARDS CEREMONY**

### **Rule 8.1 Awards Ceremony**

Immediately following the Competition, the Committee will host an Awards Ceremony. At the Awards Ceremony, the Committee will announce the awards for the Competition. The Committee will also make the ballots from the Competition available to the teacher or attorney coaches for each team at the conclusion of the Awards Ceremony.

### **Rule 8.2 Mock Trial Champion and Top Five Teams**

The Committee will announce, in reverse order, the top five teams, as calculated by Rule of Competition 5.5. Each team will receive an award. In addition, the first place team will receive \$4,000 from the Committee to help defray the cost to attend the National High School Mock Trial Competition. In the event that the first place team cannot attend the National High School Mock Trial Competition, the next-in-line team will be asked to attend and will receive the monetary award.

### **Rule 8.3 The Delaware Way Award**

The Delaware Way Award will be awarded to the team that best exemplifies the ideals of legal practice in Delaware—i.e., civility, justice, and fair play, as ranked by their peers. At the end of Round 3, each team will complete a “Delaware Way Award” form, scoring each of the teams they competed against for that team’s adherence to the ideals of civility, justice, and fair play. Teams will be ranked by their overall score first, then their order rankings, then the number of positive comments, and finally the strength of the positive comments. The Committee reserves the right to name co-winners of this award.

### **Rule 8.4 Outstanding Advocate and Outstanding Witness Awards**

The Committee will announce the winners of the Outstanding Advocate and Outstanding Witness awards for the Championship round at the Awards Ceremony. In addition, the Committee will announce those individuals who, during Rounds 1-4 of the Competition, won three (3) or more gavels. Finally, the Committee will announce those individuals who, as seniors, have accumulated ten (10) or more gavels during the Competition Rounds in which they have competed over the prior four (4) years.

### **Rule 8.5 Courtroom Artist Award**

The Committee will announce the winner of the Courtroom Artist Competition. The winner of the Competition will receive a \$250 award.

### **Rule 8.6 Essay Scholarship Award**

The Committee will announce the winner of the Essay Scholarship Contest. The winner of the Essay Contest will receive a \$750.00 award.