

**TEXAS HIGH SCHOOL MOCK TRIAL COMPETITION**  
**RULES OF THE COMPETITION**  
**2020-2021**

The Texas High School Mock Trial Competition is governed by the Rules of the Competition and the Texas High School Mock Trial Rules of Evidence. Any clarification of rules or case materials will be issued in writing to all participating teams in a timely manner. The State Coordinator, upon the advice and consent of the Executive Board of the Texas High School Mock Trial Competition, will distribute to each team any such clarification.

Teams are responsible for the conduct of all people associated with the team throughout the tournament and related events. Participation in this program is voluntary and constitutes each participant's consent to be bound by the rules set forth below and any decision made by the Executive Board, as appropriate. **Rules are subject to change.**

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**RULES OF THE COMPETITION**

**I. Administration**

|           |                                |   |   |   |   |
|-----------|--------------------------------|---|---|---|---|
| Rule 1.1. | Application and Interpretation | . | . | . | . |
| Rule 1.2. | Code of Ethical Conduct.       | . | . | . | . |
| Rule 1.3. | Emergencies.                   | . | . | . | . |
| Rule 1.4. | Student Timekeepers            | . | . | . | . |

**II. The Case**

|          |                               |   |   |   |   |
|----------|-------------------------------|---|---|---|---|
| Rule 2.1 | The Problem.                  | . | . | . | . |
| Rule 2.2 | Witnesses Bound by Statements | . | . | . | . |
| Rule 2.3 | Gender of Witnesses           | . | . | . | . |
| Rule 2.4 | Voir Dire                     | . | . | . | . |

**III. Teams**

|          |                   |   |   |   |   |
|----------|-------------------|---|---|---|---|
| Rule 3.1 | Team Eligibility  | . | . | . | . |
| Rule 3.2 | Team Composition  | . | . | . | . |
| Rule 3.3 | Team Presentation | . | . | . | . |
| Rule 3.4 | Team Duties.      | . | . | . | . |
| Rule 3.5 | Team Roster Form  | . | . | . | . |

**IV. The Trial**

|          |                                       |   |   |   |   |
|----------|---------------------------------------|---|---|---|---|
| Rule 4.1 | Courtroom Setting                     | . | . | . | . |
| Rule 4.2 | Stipulations                          | . | . | . | . |
| Rule 4.3 | Reading into the Record Not Permitted | . | . | . | . |
| Rule 4.4 | Swearing of Witnesses                 | . | . | . | . |

|           |  |   |   |   |   |
|-----------|--|---|---|---|---|
| Rule 4.5  | Trial Sequence and Time Limits                       | . | . | . | . |
| Rule 4.6  | Timekeeping  | . | . | . | . |
| Rule 4.7  | Time Extensions                                      | . | . | . | . |
| Rule 4.8  | Motions Prohibited                                   | . | . | . | . |
| Rule 4.9  | Sequestration  | . | . | . | . |
| Rule 4.10 | Bench Conferences                                    | . | . | . | . |
| Rule 4.11 | Supplemental Material; Costumes                      | . | . | . | . |
| Rule 4.12 | Independent Research Relating to Case Topic          | . | . | . | . |
| Rule 4.13 | Trial Communication                                  | . | . | . | . |
| Rule 4.14 | Viewing a Trial                                      | . | . | . | . |
| Rule 4.15 | Videotaping/Photography                              | . | . | . | . |
| Rule 4.16 | Jury Trial   | . | . | . | . |
| Rule 4.17 | Standing During Trial                                | . | . | . | . |
| Rule 4.18 | Objections During Opening Statement/Closing Argument | . | . | . | . |
| Rule 4.19 | Objections   | . | . | . | . |
| Rule 4.20 | Procedure for Introduction of Exhibits               | . | . | . | . |
| Rule 4.21 | Use of Notes.  | . | . | . | . |
| Rule 4.22 | Redirect; Re-cross                                   | . | . | . | . |
| Rule 4.23 | Scope of Closing Arguments                           | . | . | . | . |
| Rule 4.24 | The Critique.  | . | . | . | . |
| Rule 4.25 | Offers of Proof                                      | . | . | . | . |

**V. Judging and Team Advancement**

|          |                             |   |   |   |   |
|----------|-----------------------------|---|---|---|---|
| Rule 5.1 | Finality of Decisions       | . | . | . | . |
| Rule 5.2 | Judging Panels              | . | . | . | . |
| Rule 5.3 | Score Sheets/Ballots.       | . | . | . | . |
| Rule 5.4 | Completion of Score Sheets. | . | . | . | . |
| Rule 5.5 | Team Advancement.           | . | . | . | . |
| Rule 5.6 | Effect of Bye/Default       | . | . | . | . |

**VI. Dispute Resolution**

|          |   |   |   |   |   |
|----------|---|---|---|---|---|
| Rule 6.1 | Disputes Regarding Conduct During Trial.    | . | . | . | . |
| Rule 6.2 | Disputes Regarding Conduct Outside of Trial | . | . | . | . |
| Rule 6.3 | Effect of Violation on Score                | . | . | . | . |

# TEXAS HIGH SCHOOL MOCK TRIAL COMPETITION RULES OF THE COMPETITION

## I. ADMINISTRATION

### Rule 1.1. Application and Interpretation

All trials will be governed by the Rules of the Texas High School Mock Trial Competition (the “Competition Rules”) and the Texas High School Mock Trial Rules of Evidence. Interpretations of these rules and/or questions that may arise concerning these rules are within the sole discretion of the Executive Board of the Texas High School Mock Trial Competition (the “Mock Trial Board”), whose decision is final.

### Rule 1.2. Code of Ethical Conduct

- a. Team members and coaches must sign the Code of Ethical Conduct and submit the signed copy to the Mock Trial Coordinator prior to the first round of competition. Teams advancing to the State Championship Tournament must submit a new signed Code of Ethical Conduct.
- b. The Competition Rules as well as proper rules of courthouse and courtroom decorum and security must be followed. The Mock Trial Board possesses discretion to impose sanctions, including but not limited to forfeiture or disqualification for any breach of the Code of Ethical Conduct or other misconduct, including but not limited to flagrant rule violations or 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. **In these rules, all references to “participating” include any activity as a part of a mock trial competition in-person or virtually**

### Rule 1.3.1 Emergencies - **General**

- a. In the event of an emergency that would cause a team to participate with less than six members, the team must notify the tournament administrators as soon as is reasonably practical. If the tournament administrator, in his or her sole discretion, agrees that an emergency exists, the administrator 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. If the decision is that a team may continue with less than six members, the team is ineligible to advance to both the semi-final round and the Championship round.
- b. A forfeiting team will receive a loss and points totaling the average number of the ballots and points received by all other losing teams in that round. The non-forfeiting team will receive a win and an average number of ballots and points received by all other winning teams in that round.

- c. The tournament administrator will make the final determination of emergency, forfeiture, and/or advancement.

### **Rule 1.3.2. Emergencies - Virtual Competitions**

- a. In the event of technical difficulties during the trial in a virtual competition, the presiding judge shall have discretion to declare a brief recess to resolve any technical difficulty substantially impairing a participant's participation in the trial. Teams shall provide to the presiding judge at least 2 cell phone numbers that the Presiding Judge can use in the event of technical difficulty. If the technical difficulty cannot be resolved within a reasonable, but brief, amount of time, then the trial will continue with another member of the impacted team substituting for the impacted team member. The emergency substitute must be a member of the same team as the impacted participant.
- b. Before making an emergency substitution, the impacted team must make the presiding judge aware, by stating words to the effect of, "Your honor, before I begin I would like to inform the court that I am [insert name] and I am substituting for [insert name], who is unable to compete due to technical difficulties." Teams shall advise the competition coordinators of any emergency substitution following the round of competition.
- c. The presentation will be scored based on the performance by the initial team member and the emergency substitute, taken as a whole.
- d. Once the presiding judge determines either at the request of the team or *sua sponte* that a student is unable to compete in a role due to technical difficulties, to minimize disruption, the impacted student is not permitted to return and compete in the role for which a substitution was made. If the technical difficulty is resolved, the impacted participant may return and participate in his or her other roles, if any. For purposes of this rule, a witness examination consisting of direct, cross, any re-direct and any re-cross is one role, so that a participant who requires an emergency substitution for a witness examination may not return and participate until the entire witness examination is completed.
- e. For purposes of this rule, technical difficulties include internet failure and computer, device or microphone failure; failure of a camera only does not permit emergency substitution under this rule. Students who lose internet connection shall rejoin the trial using a telephonic connection, if possible.
- f. In the event of a loss of connection for a timekeeper, that team shall defer to its opponent's timekeeper for that trial segment. The team whose timekeeper lost connection may substitute another timekeeper qualified under **Rule 1.4** for the remaining trial segments. The timekeepers shall confer consistent with Rule 4.6.d regarding time remaining at the beginning of each trial segment.
- g. Technical emergencies resulting from the loss of the connection of a presiding or scoring judge shall be handled in accordance with **Rule 5.2.D.**
- h. In the event that a technical emergency prevents an entire team from completing in part or all of a round, the presiding judge shall declare a recess of up to 15 minutes, to allow that

team to reconnect, either via video or by connecting on audio-only via telephone. If reconnection is impossible, a forfeit shall be declared in favor of the team that maintains its connection. If at least five witnesses have been subject to cross-examination, the competition coordinators or its designee may in its sole discretion complete the ballot, assigning scores equal to their average score on all segments that could not be completed by the disconnected team and a “10” to the team that remained connected.

- i. No student or team may feign technical difficulty or invoke the technical difficulty rule for purposes other than a genuine technical difficulty. Such an act would violate the Rules of Competition and Code of Ethical Conduct and may be sanctioned at the discretion of the State Board or its designees through point deductions or other means up to and including disqualification from the competition.

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

- a. Each team is responsible for providing one student to serve as an official timekeeper during each trial. If a team has less than seven student members, the team must defer to their opponent’s official timekeeper in all rounds of the competition. Every team with an official timekeeper is responsible for equipping the timekeeper with two (2) stop watches. In trial, each team is to use a set of “Time Remaining” cards that have only the following designations: 20:00, 15:00, 10:00, 5:00, 4:00, 3:00, 2:00, 1:00, 0:40, 0:20, and STOP to signal time. No additional time intervals may be used during the trial. Timekeepers may not communicate with teams except to show time cards, unless directed by the presiding judge.
- b. Teams must use the time card template provided in the case materials in preparing official time cards to be used during competition.
- c. Modification of intervals and size of cards is not permitted. The only acceptable modifications are color of paper and lamination.
- ~~d. Each team’s official timekeeper is required to attend the on-site timekeeper orientation before rounds begin. If a team does not attend the required orientation meeting, that team will defer to its opponents’ official timekeepers in all rounds of the competition.~~

#### **Rule 1.5. Relationship to Other Laws; Accommodation of Disability**

These Rules will be interpreted and administered consistent with all applicable laws. Accordingly, should any applicable law require variance from these rules or accommodation of any competitor for any reason, including a legally-recognized disability, that team member or their coach may apply to the State Board or its designee for accommodation, and such reasonable accommodation as the law requires shall be granted. Where possible, teams competing against the team for which an accommodation was granted shall be informed of the accommodation in advance of a competition round but will ordinarily not be informed of the specific nature of the issue that led to the accommodation.

## II. THE CASE

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

- a. The problem is an original fact pattern that may contain any or all of the following: indictment, stipulations, witness statements, jury charge, and exhibits. Stipulations may not be disputed at trial. Witness statements and exhibits may not be altered or modified in any way for use in trial.
- b. The problem consists of three witnesses per side, all of whom will have names that would allow them to be played by either males or females. All three witnesses per side must be called. Teams may not call any of their own witnesses as a hostile witness.

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

- a. Each witness is bound by the facts contained in his/her own witness statement and/or any necessary documentation relevant to his/her testimony. A witness may make fair inferences from the information presented in the witness statement and may add immaterial facts, so long as the inference and/or the adding of immaterial facts are consistent with the witness statement. Witnesses may not create a material fact nor may team attorneys ask questions that would require the witness to create a material fact.
- b. The creation of material facts through a witness' testimony on direct or re-direct examination is not permitted if it is: (a) inconsistent with or not contained in that witness' statement, or the stipulations, and may not be inferred there from; and (b) would be material to any disputed factual issue in the case. Such occurrences, if any, are best attacked through impeachment and/or closing arguments.
- c. If a witness is asked about information not contained in the witness' statement during direct or re-direct examination, the answer must be consistent with the statement and may not materially affect the witness' testimony or any substantive issue of the case.
- d. Witnesses are prohibited from responding to any question during direct or redirect examination with new material facts that are not contained in the witness' statement and that are inconsistent with the witness' statement.
- e. Witnesses are not bound by facts contained in other witnesses' written statements. Witnesses may be asked to respond to or comment on the prior live testimony of other witnesses in the same trial.
- f. In a criminal case, no witness may confess to the crime.
- g. Examples of the creation of material facts that have been found to be improper during direct or re-direct examination include but are not limited to the following where not contained or reasonably inferred from the witness' statement: creating a physical or mental disability;

giving a witness a criminal or bad record; creating facts that give a witness standing as an expert; materially changing the witness' profession, education, background, character, memory, mental or physical ability.

**Rule 2.3. Unfair Extrapolation**

- a. A fair extrapolation is one that is neutral. Unfair extrapolations are best attacked through impeachment and closing arguments and are to be dealt with in the course of the trial.
- b. If a witness is asked information not contained in the witness' statement during direct or re-direct examination, the answer must be consistent with the statement and may not materially affect the witness' testimony or any substantive issue of the case.
- c. If a witness is asked information not contained in the witness' statement during cross examination, the answer need not be consistent with the statement and may or may not materially affect the witness' testimony or any substantive issue of the case. Attorneys for the opposing team may refer to this rule in a special objection, such as "unfair extrapolation" or "this information is beyond the scope of the statement of facts."
- d. Possible rulings by a presiding judge include: a) No extrapolation has occurred; b) An unfair extrapolation has occurred; c) The extrapolation was fair. When an attorney objects to an extrapolation, the judge will rule in open court to clarify the course of further proceedings. In the event the judge rules that an unfair extrapolation has occurred, each performance judge will decide independently how many, if any, penalty points will be deducted while weighing subsequent violations, if any. The decision of the presiding judge regarding extrapolations or evidentiary matters is final.

**Rule 2.4. Gender of Witnesses**

All witnesses are gender neutral. A 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.

**III. TEAMS**

**Rule 3.1. Team Eligibility**

- a. A team shall be composed of students who are no older than 19 and are currently enrolled at the high school level. Each school may only enter one team in the competition; provided, however, that a school organization that has multiple branches may enter up to one team from each branch in the competition.

- b. It is strongly recommended that each team enlist the assistance of at least one teacher coach and at least one attorney coach.
- c. Student team members must meet Texas Education Agency criteria for participation in extracurricular activities, as described in the “No Pass, No Play” academic eligibility rules for the University Interscholastic League (UIL).
- d. Participation of home school teams is allowed so long as the following conditions are met: (1) all members of the team are a part of the same home school association; (2) preparation for the mock trial may not occur as a part of the regular academic day, unless it is part of a regularly scheduled class that does not exceed 60 minutes per day; (3) all participants must be currently enrolled in grades 9-12 and are on or above grade level; and (4) teams meet regional requirements, if any.
- e. Participation of teams from a school organization with multiple branches shall be governed by the following additional rules: (1) students must compete on a team from the branch that they attend unless the branch the student attends does not have a team in the competition; (2) if a student attends a branch that does not have a team in the competition, then the student may compete on a team from a different branch so long as that branch is located in the same competition region as the branch that the student attends; (3) in no event shall a student be permitted to compete for a branch located in a different region than the region where the student attends; (4) a school organization with multiple branches shall not be permitted to share, transfer, or swap students between branches for any reason other than those set forth in this sub section.
- f. Teams, whether from different schools or separate branches of a school organization, may practice, scrimmage, or otherwise prepare for the competition as they see fit. However, every team/branch in a competition shall be subject to the same random assignments and power-matching process irrespective of any pre-competition practices, scrimmages, or preparation.
- g. No team, whether from different schools or separate branches of a school organization, may coordinate or take any actions or inactions that would benefit one team/branch at the expense of another. In such an event, both teams/branches will forfeit each and every round affected.
- h. Participation in a trial by an ineligible team member will result in the forfeiture of each round in which such participation occurred.
- i. An ineligible team member may observe the competition and, as a spectator, has the same restrictions as outlined for coaches and other observers.

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

- a. A team consists of a minimum of six and a maximum of ten members assigned to attorney, witness, and timekeeper roles representing the prosecution/plaintiff and defense/defendant

sides. Any six of the ten official team members may participate in any given round as attorneys and witnesses (consistent with Rule 3.3). In addition, in any given round, one of the ten official student members will be designated as the team's official timekeeper. If a team assigns more than one student to the timekeeper role, then all students who will be assigned to the timekeeper role must attend the required timekeeper orientation (Rule 1.4 (d)). If a team has less than seven student members, the team must defer to their opponent's official timekeeper in all rounds of the competition. The team's official student timekeeper will keep time for both sides during all competition rounds. At no time may a team, for any reason, substitute other persons for official team members.

- b. The Team Roster Form will become official at the time of on-site registration for an in-person competition, **and at 5:00 p.m. on the day prior to the first round for a virtual competition**. After the first round of that tournament, no team may, for any reason, substitute any other person for an official team member during that tournament. Teams may alter their Team Roster Form for subsequent competitions but are bound by these rules regarding substitutions once the Form has become official.

### **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 round. For each trial round, teams will use three team members as attorneys and three team members as witnesses.

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

- a. **Except as permitted during an emergency under Rule 1.3.2**, team members must 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 statement and another will present the closing argument. In other words, the eight attorney duties for each team will be divided as follows:

- #1 Opening Statement
- #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 for the Prosecution/Plaintiff)

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

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

### **Rule 3.5. Team Roster Form**

- a. 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 **for an in-person competition. For a virtual competition, teams must submit Team Roster Forms in accordance with the protocol established and announced for the competition.** Teams must be identified by the code assigned at registration. No information identifying team origin should appear on the form.
- b. Each team must designate one attorney participating in a trial as “lead attorney” and this designation is to be made on the Team Roster Form to the side of the student’s name who will serve as lead attorney for that trial. Teams may change lead attorneys from trial to trial but not during a trial. (See Rule 6.1)
- c. Before beginning a trial, **in an in-person competition,** both teams will exchange copies of their Team Roster Form. **Team Roster Forms will be distributed to judges in a virtual competition according to the protocol established for the competition.** In addition, both teams will provide copies of their Team Roster Form to each member of the judging panel and to the presiding judge before each round.

## **VI. THE TRIAL**

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

- a. **For an in-person competition,** the Prosecution/Plaintiff team will be seated at the table closer to the jury box. No team may rearrange the courtroom without prior permission from the tournament administrator.
- b. **For a virtual competition,** each participant will log into the virtual platform separately from a normal personal computer, tablet, cellular phone, or similar device, unless permission is granted by the State Board or its designee to do otherwise. At a minimum, each of a participating attorney, witness, and timekeeper shall utilize an individual device. Each participant shall use a screen name formatted according to the protocol established and announced for the competition. Once the trial begins, only participants who are competing in a particular trial segment will have their camera turned on. All team members who are not actively participating in that trial segment must have their cameras turned off, except for timekeepers turning on their cameras to display remaining time consistent with Rule 1.4. For purposes of this rule, the witness, direct-examining attorney and cross-examining attorney must have their cameras turned on for the entire witness examination.

**Rule 4.2. Stipulations**

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

**Rule 4.3. Reading into the Record Not Permitted**

Stipulations, the indictment, and/or the Charge to the Jury, when applicable, will not be read into the record.

**Rule 4.4. Swearing of Witnesses**

- a. The following oath may 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?”
- b. The swearing of witnesses will occur in one of two ways. The presiding judge either will indicate that all witnesses are ~~assumed~~ **deemed to be sworn using the above oath, or the above oath will be ~~conducted~~ administered by the presiding judge or a bailiff, provided by the competition coordinators. The coordinators will indicate which method will be used during all rounds of the current year's tournament. Witnesses may stand or sit during the oath.**
- c. **For virtual competition, all witnesses will be deemed to be sworn.**

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

- a. The trial sequence and time limits are as follows:

|      |                                 |                     |
|------|---------------------------------|---------------------|
| i.   | Opening Statement               | 5 minutes per side  |
| ii.  | Direct and Redirect Examination | 25 minutes per side |
| iii. | Cross and Re-cross Examination  | 20 minutes per side |
| iv.  | Closing Argument*               | 5 minutes per side  |

\*The presiding judge may call a very brief (maximum of one minute) pause in the trial for teams to prepare for closing arguments. In the event this pause occurs, all participants, coaches and observers are to remain seated and are not permitted to talk to, communicate with, or signal other team members or coaches. Attorneys at the counsel table may confer among themselves only.

- b. The Prosecution/Plaintiff gives its final argument first, followed by the final argument of the Defendant. The Prosecution/Plaintiff may conduct a rebuttal with up to 60 seconds of the remaining time not used in the initial final argument. The Prosecution/Plaintiff’s rebuttal is limited to the scope of the Defendant’s closing argument **and may not exceed 60 seconds even if the Defendant has more than 60 seconds left in its 5 minutes for Closing Argument.**

- c. Attorneys are not required to use the entire time allotted to each segment of the trial.
- d. Time remaining in one segment of the trial may not be transferred to another segment of the trial. Neither side may alter the trial sequence at any time.

**Rule 4.6. Timekeeping**

- a. Time limits are mandatory and will be enforced.
- b. Time for objections, questioning from the judge, or administering the oath will not be counted as part of the allotted time for examination of the witnesses and the opening statements and closing arguments.
- c. Time does not stop for the introduction of exhibits.
- d. The presiding judge shall have discretion to stop time for technical difficulties in a virtual competition that do not rise to the level of an emergency under Rule 1.3.2.
- e. At the end of each task during the trial presentation (i.e. at the end of each opening, at the end of each witness examination, etc.), if there is more than a 15-second discrepancy between the teams' timekeepers, the presiding judge must be notified of the discrepancy. The presiding judge will then rule on the discrepancy, the timekeepers will synchronize their stop watches accordingly, and the trial will continue. A time discrepancy of less than 15 seconds will not be considered by the court.
- f. No time dispute will be entertained after the trial concludes. The decisions of the presiding judge regarding the resolution of time disputes are final.
- g. During a virtual competition, after each witness, timekeepers shall confer using the "chat" or similar feature regarding how much time remains for each team.
- h. In a virtual competition, the timekeepers must signal time by posting the time signals permitted by subsection a in the chatroom function of the virtual competition platform. The timekeepers also may display Time Remaining cards by activating their camera to do so.
- i. Students keeping time may use stopwatches or cellular phones. Any cellular phone used for timekeeping must be kept in airplane mode and silenced during the duration of the trial round.

**Rule 4.7. Time Extensions and Scoring**

The presiding judge has sole discretion to grant time extensions. If time has expired and an attorney continues without permission from the Court, judges may take this into consideration in scoring.

**Rule 4.8. Motions Prohibited**

No motions may be made during trial other than the motion to strike.

**Rule 4.9. Sequestration**

Teams may not invoke “the Rule” for sequestering witnesses.

**Rule 4.10. Bench Conferences**

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

**Rule 4.11. Supplemental Material; Costumes**

- a. Teams may refer only to materials included in the case packet. The only documents that teams may present to the presiding judge or jury are exhibits that have been admitted as evidence in the trial and the team roster form.
- b. No illustrative or demonstrative aids of any kind may be used, unless provided in the case packet. Displaying an exhibit that is part of the trial packet is not considered to be an illustrative or demonstrative aid. An example of a permitted display is using thumbtacks to pin an exhibit to a bulletin board.
- c. No enlargements or alterations of case materials, including exhibits, are permitted. For purposes of this rule, alteration includes physical or constructive redactions, underlining, highlighting, or other marks made on a document.
- d. No props or costumes are permitted, unless authorized specifically in the case materials. Costumes are defined as hairstyles, clothing, accessories, props and makeup, which are case-specific or which are not worn on a regular or everyday basis by the participant.
- e. In a virtual competition, students may be directed to display screen names according to a protocol established and announced for a virtual competition. Such display is not a violation of this rule.
  - 1. The presiding judge and bailiff (if any) should have screen names that reflect their breakout room number and role. “Ex. 5 – JUDGE – Name”
  - 2. Advocates’ screen names should include their parties, team codes, and last names to help judges know who they are scoring. Ex. “P - ABC - Nixon” or “D - XYZ - Johnson”.

3. Coaches will have their videos disabled. But judges can still see their names in the participant list. So coaches should be named simply “Coach” to reduce the likelihood that judges identify the teams they are judging.
4. Witnesses must have a screen name that identifies the party calling them, team code, and both the witness name and the student name. Ex. “D – ABC - Cothran/Nussall”.

**Rule 4.12. Independent Research Relating to Case Topic**

- a. Teams may conduct research of any of the issues raised by the case problem and read other cases, materials, and articles in preparation for the mock trial. However, no information, expertise, or knowledge gleaned from such research may be used during opening, closing, rebuttal, direct examination, or cross-examination. Teams may cite only the materials given, and may introduce into evidence only those documents given in the official mock trial case packet. Teams may not use, even for demonstrative purposes, any materials which are not provided in the case packet.
- b. Should any independent research suggest or prove that any fact contained in the case materials is incorrect or inaccurate, the case materials shall control.

**Rule 4.13. Trial Communication**

- a. **In an in-person competition**, electronic devices (including but not limited to laptop computers, notebook computers, tablet computers, and smart phones) may not be used by any team member during a trial. Any such devices brought to the courtroom by a team member must be turned off or silenced and shall be stored out of sight during the entirety of the trial. If any of the six participating team members in a trial views or otherwise uses an electronic device during a trial, the team will be deemed in violation of subpart (b) of this rule, without regard to whether actual communication with a coach, teacher, or observer is demonstrated.
- b. Coaches, teachers, and observers may not talk to, communicate with, signal, or in any way coach their teams at any time during the trial. This rule remains in force during any emergency recess that may occur.
- c. Subject to the prohibition in subpart (a) of this Rule on use of electronic devices, the six participating team members in a trial may use courtroom-appropriate communication during the trial to communicate among themselves. No disruptive communication is allowed.
- d. Non-participating team members, teachers, and coaches must remain outside of the bar in the spectator section of the courtroom. Only team members participating in the particular round may sit inside the bar and communicate with each other.
- e. In the event an emergency recess is called, teams are to remain in place and not to communicate with any observers, coaches, or instructors.

- f. During a virtual competition, no team member, coach, or judge nor students may use the “chat,” “instant message,” or “chatroom” function of the electronic platform, except to: (1) display timekeeping messages, and (2) to communicate in the case of a technical emergency where audio and video functions are lost but access to the chat or instant messaging function is intact. Observers are not permitted to use the chat or instant messaging functions at any time.
- g. During a virtual competition, only the six participating team members may communicate with one another. The six participating team members may use computers, cellular telephones, or other devices to facilitate this communication.

**Rule 4.14. Viewing a Trial**

Team members, teacher sponsors, attorney coaches, and all others directly associated with a mock trial team are not allowed to view other teams in competition so long as their team remains eligible to participate in any tournament in the current competition year.

**Rule 4.15. Videotaping/Photography**

- a. Videotaping and tape recorders will not be permitted in the courtroom unless: (a) both sides agree to allow such taping and the taping team agrees to provide a copy of the tape to the non-taping team, at the expense of the non-taping team; (b) upon completion of that round, all tapes are provided to the competition coordinator who will return tapes at the conclusion of the State Championship; and (c) the taping is does not disrupt the trial.
- b. A team has the option to refuse participation in videotaping, tape recording, still photography, or media coverage, with the exception of the final round of the State Championship Tournament.
- c. In order to support civics education, facilitate media coverage, and provide a maximum opportunity for family, friends, peers, and teachers to view our teams competing, all participants must consent to video or audio recording and electronic posting (including video meeting, social media, or other platforms) of each performance at the State Championship, except as provided in Rule 1.5 or otherwise determined by the State Board.
- d. No team may post, share with another competing team, or otherwise disseminate any recording of any competition round prior to the conclusion of the State Championship. Each team shall inform any family member or other observer of this rule. Violations of this rule, even by an individual who is not a team member, may result in sanction of the team affiliated with the individual who recorded and/or posted, shared, or otherwise disseminated the recording up to and including disqualification from the competition.
- e. The State Board or its designee may permit exception to this rule for media coverage.

#### **Rule 4.16. 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 4.17. Standing During Trial**

Attorneys shall stand while addressing the court, giving opening statement and closing arguments, and for all objections. Attorneys may conduct direct examination and cross examination while seated or standing. **For virtual trials, student attorneys may elect to stand or remain seated for all parts of the trial, except that all objections shall be made while seated.**

#### **Rule 4.18. Objections During Opening Statement/Closing Argument**

- a. No objections may be raised during opening statements or during closing arguments.
- b. If a team believes an objection would have been ~~proper~~ **warranted** during the opposing team's opening statement or closing argument, ~~one of its attorneys may~~ **the opposing attorney for that segment may**, following the opening statement or closing argument, **may** stand to be recognized by the judge and may say, "If I had been permitted to object during opening/closing arguments, I would have objected to the statement that \_\_\_\_\_." The presiding judge will not rule on this "objection." **During a virtual competition, the attorney shall make the objection while remaining seated.**
- c. Presiding and scoring judges will weigh the "objection" individually. No response by the opposing team to an objection under this Rule will be heard.

#### **Rule 4.19. Objections**

- a. Argumentative Questions: Attorneys may not ask a question that asks the witness to agree to a conclusion drawn by the questioner without eliciting testimony as to new facts (sometimes referred to as "badgering the witness"). However, the presiding judge may allow limited use of argumentative questions on cross-examination.
- b. Ambiguous Questions: Attorneys may not ask questions that are capable of being understood in two or possible ways.
- c. Lack of Proper Predicate/Foundation: Attorneys shall lay a proper foundation prior to moving the admission of evidence. Even after a proper predicate has been laid, the exhibits may still be objected to on other grounds (i.e. relevance, hearsay, etc.) [The stipulation that a document is "authentic" means only that it is what it appears to be, not that the statements contained therein are necessarily admissible.]
- d. Assuming Facts Not in Evidence: Attorneys may not ask a question that assumes unproved facts. However, a witness may be asked a question based upon stated assumptions, the truth of which is reasonably supported by evidence (sometimes called a "hypothetical question").

- e. 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.")
- f. Non-Responsive Answer: A witness' answer is objectionable if it fails to respond to the question asked.
- g. 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.

The foregoing objections are examples of possible objections during trial, and teams are not precluded from raising additional objections which are available under the Texas High School Mock Trial Rules of Evidence.

#### **Rule 4.20.1 Procedure for Introduction of Exhibits - Generally**

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 witness. "Your honor, may I approach the witness with what has been marked for identification purposes as Exhibit No. \_\_\_?"
3. Show the exhibit to opposing counsel.
4. Ask the witness to identify the exhibit. "I now hand you what has been marked for identification as Exhibit No. \_\_\_\_\_. Would you identify it please?" Witness should answer to identify only.
5. 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.
6. Offer the exhibit into evidence. "Your Honor, we offer Exhibit No. \_\_\_ into evidence."
7. Court: "Is there an objection?" (If opposing counsel believes a proper foundation has not been laid, the attorney should be prepared to object at this time.)
8. 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?"

9. Court: “Exhibit No. \_\_\_\_ (is/is not) admitted.” If admitted, questions on content may be asked.

10. If an exhibit is introduced into evidence, a team may publish it to the jury at the presiding judge’s discretion.

#### **Rule 4.20.2 Procedure for Introduction of Exhibits – Special Rules for a Virtual Competition**

During a virtual competition, the procedure in Rule 4.20.1 shall be followed, except that:

1. All witnesses shall have all case materials available and in their possession during their testimony but may only refer to them when prompted by an examining attorney.
2. Attorneys will not physically approach witnesses. Instead, attorneys will identify the exhibit they wish to show the witness and request the Court’s permission for the witness to view it.
3. Attorneys will not be required to confirm that they have shown the exhibit to opposing counsel.
4. Instead of the language in Step 4, above, the attorney will say words to the effect of “I now show you what has been marked for identification as Exhibit No. \_\_\_\_\_. Would you identify it please?” Witness should answer to identify only.
5. When an exhibit – or, during impeachment or refreshment of recollection, some other document – is shown to a witness, a member of the examining attorney’s team shall make that document available to all participants via “screen sharing” or similar technology. The member of the team responsible for posting the exhibit must be a team member competing in the round or the timekeeper for the round.
6. Exhibits or other documents posted in this manner will be deemed not to have been shown to the jury unless they are admitted into evidence and formally published to the jury. Publication to the jury is at the presiding judge’s discretion.
7. Teams may use technology to mark exhibits electronically only to the extent that marking physical exhibits would have been permitted by Rule 4.11. Any marked electronic exhibits may only be used as provided in Rule 4.11.

#### **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. Attorneys 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, except during a virtual competition.**

**Rule 4.22. Redirect/Re-cross**

One redirect examination and one re-cross examination of each witness is permitted, provided those examinations conform to the restrictions in Rule 611(d) in the Texas High School Mock Trial Rules of Evidence. No further examination of a witness will be permitted after any re-cross examination (i.e., no "re-redirect" or "re-re-cross").

**Rule 4.23. Scope of Closing Arguments**

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

**Rule 4.24. The Critique**

The judging panel is allowed 10 minutes for debriefing and critique. Team timekeepers will monitor the critique following the trial. Presiding judges are to limit critique sessions to a combined total of ten minutes. Judges shall not make a ruling on the legal merits of the trial. Judges may not inform the teams/students of score sheet results either inside or outside of the courtroom.

**Rule 4.25. Offers of Proof**

No offers of proof may be requested or tendered.

**V. JUDGING and TEAM ADVANCEMENT**

**Rule 5.1. Finality of Decisions**

- a. All procedural and evidentiary decisions of the judging panel are **FINAL**.
- b. Judges are asked to make one decision: the better overall team presentation. The criteria for determining the better presentation are listed on the judge's score sheet.
- c. Judges may neither inform the teams of individual or collective score sheet results nor announce the better overall presentation decision.
- d. The decision of the Mock Trial Board, Tournament Administrator, and/or Regional Coordinator is final.

## **Rule 5.2. Judging Panels**

- a. 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 tournament administrator, with the same format used throughout the competition, as follows:
  1. One presiding judge with two scoring judges (all three of whom complete score sheets); or
  2. One presiding judge and three scoring judges (scoring judges only complete score sheets); or,
  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).
- b. In the event three scoring judges are not available, a trial may be judged by one or two judges as follows:
  1. If only one judge is available, that judge shall preside and complete one score sheet. Each team will receive a total score for the round equal to three times the score for that team recorded on the score sheet and the team with the highest total score for the round will receive three ballots.
  2. If only two judges are available, one judge will preside with one scoring judge. Both judges will complete score sheets and each team will receive a total score for the round equal to 1.5 times the combined score given that team by the two judges. If both judges award ballots to the same team, that team will receive three ballots for the round. If the ballot vote is split, the team with the highest total score for the round will receive two ballots and the other team will receive one ballot. If the total scores for the teams are the same (i.e., there is a tie), the team receiving the highest score from the scoring judge (NOT the presiding judge) will be declared the winner and will receive two ballots, with the other team receiving one ballot.
- c. All presiding and scoring judges receive the mock trial case materials, a memorandum outlining the case, orientation materials, and a briefing in a judges' orientation.
- d. In the event of an emergency (i.e., sudden illness, etc.), if a judging panel member must leave the courtroom or the virtual competition platform, the presiding judge will call for a brief recess and assess whether the judging panel member will be able to return in a reasonably short period of time. If the panel member is unable to return to the courtroom or virtual competition platform in a reasonably short period of time, the dispute resolution committee must be informed. Once the panel composition is adjusted by this committee

to best meet the requirements of the rules, then the round should continue. During any recess under this rule, the teams, whenever possible, should remain in their appropriate positions within the courtroom or in the virtual competition platform until the round resumes.

- e. If the technical or other emergency impacts the presiding judge, a designated scoring judge will serve as the presiding judge until the dispute resolution committee can be informed and can act to adjust the panel composition.

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

- a. The “score sheet” is the form on which speaker and team points are recorded. The term “ballot” is the decision made by a scoring judge as to which team made the better presentation in the round. Judges make an individual rather than a collective decision regarding the better overall presentation decision. 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.
- b. The team that receives the majority of the three ballots wins the round. The ballot votes determine the win/loss record of the team for advancement and ranking purposes.

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

Each scoring judge shall record a number of points (1-10) for each presentation of the trial. At the end of the trial, each scoring judge shall total the sum of each team’s individual points, place this sum in the Column Totals box, and enter the team (“P” for prosecution/plaintiff or “D” for defense/defendant) with the higher total number of points in the Tiebreaker Box. **TIES ARE NOT ALLOWED IN THE COLUMN TOTALS BOXES.**

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

Teams will advance in the tournament and will be ranked based upon 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. Total Number of Points Accumulated in Each Round;
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.

#### **Rule 5.6. Effect of Bye/Default**

- a. A “bye” becomes necessary when an odd number of teams are present for the tournament. The team drawing the “bye” (no opponent for a single trial round) in rounds two through the end of the preliminary rounds will, by default, receive a win and three ballots for that round. For the purpose of advancement and seeding, 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 last preliminary round, the average from all actual trial rounds in which the team participated will be used for the final points given for that team’s bye round.
- b. 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 presentation of the team.
- c. 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.
- d. The tournament administrator may, if time permits, arrange for a “bye round” to allow teams drawing a bye to compete against each other in order to earn a true score.
- e. At the State Championship Tournament, in the event there is an uneven number of regional winners advancing, a random draw will be held to determine a “wild card” team. The wild card team will advance to State under the same privileges and responsibilities as regional winners. The “next qualifying team” in each region where a competition was held is eligible for the “wild card” draw. If, for some reason, the first draw is unavailable to compete, the next draw will be invited to advance and so on until an even number of teams will be secured. The State Coordinator will contact the sponsor of the “wild card” team and the regional winning team regarding the draw.

#### **Rule 5.7. Power Match at the State Championship Tournament**

- a. Opponent matches will be random in the first round only. A power-match system will determine opponents for all other rounds. The four highest ranked teams from the four preliminary rounds will advance to the semi-final round. Teams will be seeded for the semi-final round, even if they have faced each other in a preliminary round. The winners of the semi-final rounds will face each other in the final round. The State Champion team will be determined by ballots from the championship round only.
- b. For preliminary rounds 2, 3 and 4, the competition will employ a “power match” system. The system will match teams within brackets based on the criteria set forth in §5.5. The brackets will initially be formed using only win-loss record and opponents for the power

match will be based on that record. Teams will be sorted based on the additional criteria set forth in §5.5 for the further purpose of the power match. The team with the highest number of ballots or speaker points, 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.

- c. If there is an odd number of teams within a bracket, the top team from the next lower bracket will be advanced up and will face the top team in the higher bracket. (Example – After the second round, there are 7 teams with 2-0 records. The top 1-1 team will be drawn into the 2-0 bracket to face the top 2-0 team).
- d. Team will not face the same opponent twice in the preliminary rounds. To the greatest extent possible, teams will alternate side presentation in the preliminary rounds.

## **VI. DISPUTE RESOLUTION**

### **Rule 6.1.1 Disputes Regarding Conduct During Trial – In-Person Competitions**

All disputes regarding conduct of team members during trial, including all claims of rules violations committed inside the bar during the course of trial, will be resolved in accordance with the following procedure:

- a. After closing arguments, and before the judging panel retires for deliberation, the presiding judge and the judging panel will consider any claims regarding conduct of team members during the trial and any claims of rules violations committed inside the bar during the trial. Lead counsel for each participating team is responsible for notifying the presiding judge, after closing arguments and before the judging panel retires, that counsel desires to assert a claim of misconduct or rules violation. Any claim of misconduct or rules violation not asserted in accordance with this rule is waived and will not be considered.
- b. In the event a claim is asserted by lead counsel for either team, a hearing will be conducted before the presiding judge and the judging panel. Lead counsel for each team will act as sole spokesperson for the team in connection with all claims, and responses to all claims, under this rule. The presiding judge will conduct the hearing and may permit lead counsel time (not to exceed two minutes) to consult with co-counsel and/or student witnesses before commencing the hearing. The hearing will consist of a presentation of not more than three minutes for each side with respect to all claims and responses to claims. Team members not participating in the trial and team coaches and advisors **may not** participate in the dispute process. The presiding judge may ask questions of the lead counsel, and lead counsel is responsible for addressing any questions asked by the presiding judge.
- c. At the conclusion of the hearing, the presiding judge will adjourn the trial and the judging panel will retire for deliberation. The presiding judge and the judging panel will determine whether a material rules violation has occurred before reaching their final decisions, and that determination may affect the final decision. The decision of the judging panel is final.

- e. The presiding judge and the judging panel will consider the dispute and determine individually whether or not a material rules violation has occurred. The dispute may or may not affect the final decision, but the matter will be left to the discretion of the presiding judge (if scoring) and the judging panel. The decision of the judging panel is final and is not subject to reconsideration. The dispute and decision will be recorded on the dispute form and will be returned to the tournament administrator with the trial score sheets.

### **Rule 6.1.2 Disputes at the Conclusion of the Trial – Virtual Competitions**

The foregoing rules shall also apply in virtual competitions, except that students shall not complete a dispute form. Instead, students shall have two minutes to prepare an argument regarding their dispute in consultation with coaches and team members, and the presiding judge shall take notes regarding the nature of the dispute and the arguments presented by each team.

### **Rule 6.2. Disputes Regarding Conduct Outside of Trial**

- a. If any team believes that a material rules violation has occurred outside of a trial (i.e., a dispute not involving conduct during a trial), a teacher coach or attorney coach must advise the tournament administrator or the administrator’s designee that their team intends to file a dispute.
- b. In raising a dispute regarding conduct outside of trial, a team teacher coach or attorney coach will submit a completed “Dispute Form for Conduct Outside of Trial” to the tournament administrator or the administrator’s designee at tournament headquarters. The completed dispute form must be submitted prior to the scheduled time for the next round after the complaining team observes acts or conduct giving rise to the dispute. Disputes concerning an opposing team’s conduct outside trial that are not timely submitted in writing are waived.
- c. Upon submission of a completed dispute form, the Mock Trial Board will appoint a resolution panel to consider the dispute. The resolution panel will (a) notify all pertinent parties; (b) allow time for a written response, if appropriate; (c) conduct a hearing, if the panel determines in its discretion that a hearing is needed; and (d) rule on the dispute. If a hearing is conducted, it will be scheduled as soon as practicable, but scheduling of the hearing will be at the discretion of the resolution panel. The resolution panel may notify the judging panel of the affected courtroom of the ruling on the charge or may assess an appropriate penalty.
- d. All decisions of the resolution panel are final and there will be no appeals.

### **Rule 6.3. Effect of Violation on Score**

If the judges determine that a substantial rules violation has occurred, the 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.