

NATIONAL TRIAL COMPETITION

GUIDELINES FOR NTC JUDGES

Thank you for agreeing to be a judge during the National Trial Competition. Over 150 law schools participate in a regional competition each year, and the top two teams from each of the 15 regions advance to the national competition in Texas. Please follow the guidelines below when judging a mock trial round.

A. SOME IMPORTANT, BASIC GUIDELINES

1. Before the mock trial, the student advocates will have 15 minutes to prepare (or “woodshed”) their witness volunteers, who are not part of the mock trial team. They cannot confer with the witnesses after the woodshedding session.
2. Student advocates may examine witnesses sitting or standing.
3. Each side has a maximum of 60 minutes to present its case (excluding time for making/responding to motions), and a bailiff will keep track of time. Objections do not count towards time unless they become excessive.
4. Witnesses are allowed to have their depositions and related exhibits on the witness stand. Witnesses may highlight and underline portions of their depositions; they cannot make any other markings on their documents.
5. The *necessary inference rule* applies during the mock trial (see below); thus, witnesses may testify as to necessary inferences drawn from the facts in the problem.
6. An advocate may request permission to conduct a re-cross for the limited purpose of impeachment, to be granted or denied in the judge’s discretion; a student advocate is not permitted to waive any scored portion of the mock trial, e.g., cross examination; and, Plaintiff’s rebuttal is limited to the scope of defense’s closing argument.
7. Please do not ask any student advocate what law school he/she is from, even after the mock trial is over. If, upon entering a round, you recognize a competitor, please inform the bailiff so that the competition host may change your competition room.
8. We recommend noting your scores on paper or a paper ballot during the competition to be entered electronically after the round is complete.
9. When the mock trial is over, the presiding judge should ask everyone to leave the room while the scoring judges fill out the ballots electronically. Please do not conference with the other judges about your scores.
10. You must submit your ballot electronically via the link provided by the competition host. The ballot will automatically total the scores for each team. Ties are not permitted, so if you discover that your scores result in a tie, please change your scoring to result in a winner.
11. After all of the judges have completed their ballots, the presiding judge should inform the bailiff, who will then proceed to the scoring room for verification.
12. Please do not leave until the bailiff comes back to your room and releases everyone. Judges should use the time to comment on the student advocates’ performances. To keep the competition schedule on time, the NTC committee strongly urges judges to spend no more than 5 minutes commenting on the student advocates’ performances.
13. Protests must be lodged within five (5) minutes after the mock trial round ends. The bailiff will keep track of the five-minute period.

B. HOUSEKEEPING MATTERS, MOTIONS, AND OBJECTIONS

The student advocates will address housekeeping matters, e.g., to invoke “the rule” and constructively exclude witnesses from the courtroom. They may also present motions in limine before they present their cases. The bailiff will keep track of the time spent on motions in limine, as the competition rules limit the time for these motions. The presiding judge may, in his or her discretion, grant each motion, deny each motion, or defer the ruling on each motion.

In addition, under the Federal Rules student advocates may make a motion for judgment of acquittal (or a motion for judgment as a matter of law in civil cases) after the plaintiff’s case-in-chief. These motions must be denied so that the student advocates representing the defense can present their case.

Lastly, the time keeper for each round will be instructed to stop the timer for objections. The presiding judge, in his or her sole discretion, may order time charged against any team that makes excessive objections or uses excessive time to argue or respond to objections.

C. NECESSARY INFERENCE RULE AND IMPEACHMENT BY OMISSION

Ethical responsibilities and the practicalities of the competition situation require that student advocates be restricted to the materials provided so they cannot create or manufacture evidence or exhibits missing from the problem. Student advocates need to try the problem, not the problem drafter.

Necessary Inference Rule: Generally, each witness knows nothing beyond the facts contained in his or her deposition/statement. The competition rules do, however, allow a team to provide witnesses with information provided in the case materials. Furthermore, the rules allow a witness to make *necessary inferences* from the materials provided only as to nonmaterial facts, e.g., in the State of Lone Star it was dark outside at 11:30 p.m. The rules specifically prohibit student advocates from suggesting or encouraging testimony about material facts outside the record, and a protest procedure governs how teams must address alleged violations of this rule (see below).

Cross Examination: If during a direct examination a witness testifies to a material fact not contained in the case materials, the witness may be impeached during cross examination through “*impeachment by omission*.” Impeachment by omission, while unique to the mock trial setting, is an acceptable method for addressing witness credibility.

During cross examination, an advocate may question the witness about non-events that are reasonable inferences based on the problem materials. For example, if a police officer witness is testifying and the record is completely silent relating to DNA samples, it is reasonable to assume the police officer witness did not collect DNA samples from the crime scene. In this example, it is permissible to ask the police officer witness “You never collected any DNA samples, correct?”

However, an advocate may not invent facts or use outside resources in their questions to enhance the cross examination of a witness. For example, if a police officer witness is testifying and the record is completely silent relating to DNA samples, an advocate shall not reference topics outside of the problem materials such as; the reliability of DNA, the scientific theory of DNA, the process of DNA collection, etc. In this example, it is not permissible to ask the police officer witness, “You’re aware that margin of error for DNA tests can be as high as five percent, correct?”

D. RE-CROSS EXAMINATION

An advocate may request permission from the presiding judge for the limited purpose of impeaching a witness that the advocate believes has invented a material fact on re-direct. The presiding judge may grant or deny the request in his or her discretion. The advocate may use “impeachment by omission” as a method of impeachment during re-cross. The time taken by a re-cross will count against the time of the team whose advocate requests the re-cross.

E. INVALID OBJECTION – OUTSIDE THE RECORD

The judging panel shall not entertain an objection based solely on the ground that the witness's testimony is "outside the facts contained in the case material." Such an objection would require the panel to expend valuable time reading the materials during the competition. Cross-examination and closing arguments provide adequate opportunities for the student advocates to demonstrate effectively that the witness has strayed from the acknowledged facts of the case.

F. SCORING THE STUDENT ADVOCATES

Teams are scored out of a total of 100 points. The opening (or closing) statement and the direct and cross examinations are scored on a scale from 1-15. Each team is also scored on their handling of evidence and objections, which is scored on a scale from 1-10. Thus, the highest potential team score is 100 total points.

Please keep the following in mind when you score the student advocates:

- (1) They should be evaluated solely on demonstration of trial advocacy skills. Thus, you should not consider the merits of the case, and should not award or deduct points because of a particular witness's quality or lack of facility, nor should you score or offer critiques to advocates based on any non-advocacy characteristics such as attire, gender or race.
- (2) Advocates should conduct the trial as if a jury were present, regardless of whether a jury is actually impaneled for the trial; and
- (3) Judges are encouraged to notate their scores on their score sheets or scratch paper at the completion of each phase of the trial, i.e., before students proceed to the next scored portion of the case.

Judging Panels: Before the beginning of the trial, the competition host will designate a "presiding judge" who will make rulings during the trial. The presiding judge and additional judges will score each of the student advocates. (If you have a four-person panel, the presiding judge will not score the mock trial.) The outcome of the trial will be determined by tallying the score sheets of all three judges. The scoring ballots will be kept confidential until the competition committee allows the student advocates and their coaches/advisors to examine them.

Your online ballot will automatically total your scores for each team. ***Ties are not permitted.*** In the unlikely event that total points are equal, you must reevaluate your scores.

Please do not announce the winning team after a preliminary round mock trial unless a competition administrator has instructed you that you may do so. In most regional competitions and at the national competition, only the judges in some of the break rounds announce the winning team.

G. PROTESTS

Protests are lodged with the competition host, not the judging panel, and the competition host will monitor whether the protest is lodged within the five-minute period. Judges will not be involved in hearing the protest, but judges may need to be consulted as part of the protest procedure and may be consulted regarding the remedy for conduct ruled as a violation. The protest committee will hear the protest and will make a ruling. Please remain available to ensure that the judges are not needed to weigh in on a protest.

During the investigation, the bailiff and any witnesses whose testimony is at issue should remain in or near the courtroom.

THANK YOU FOR JUDGING!