

2019 Maine State High School Mock Trial Competition

Rationale of the Mock Trial Competition

The Mock Trial activity has proven to be an effective and popular part of a comprehensive, law-focused program designed to provide students with an operational understanding of the law, legal issues, and the judicial process. Part of the appeal of a mock trial is the fun involved in preparing for and participating in a trial. Mock trials are exciting, but more importantly, they provide invaluable learning experiences.

Participation in and analysis of mock trials provides the students with an insider's perspective from which to learn about courtroom procedures. Mock trials help students gain a basic understanding of the legal mechanism through which society chooses to resolve many of its disputes. While obtaining this knowledge, students develop useful questioning, critical thinking, and oral advocacy skills, as well as significant insight into the area of law in question.

The mock trial activity also provides an opportunity to incorporate field experiences and community resource persons into the educational process. Visits to local courts will make the activity a more meaningful learning experience. Inviting judges, attorneys, teachers, and other members of the community to take part in the mock trial will help bridge the gap between the simulated activity and reality, and also will provide an opportunity for the resource people to share their knowledge and experience with the students. Finally, the mock trial will give students practical knowledge about courts and trials, which can be invaluable should they ever be jurors or witnesses in a real trial or principals in a legal action.

(Taken in part from *Update on Law-Related Education*, Winter, 1978. *Update* is an American Bar Association publication.)

Goals of the Mock Trial Competition

Benefits of the mock trial program extend beyond the rewards of competing against one's peers or winning a round of competition. The impact of the program is measured by successfully attaining the following objectives:

- to further understanding of court procedures and the legal system;
- to improve proficiency in basic skills of listening, speaking, reading and reasoning;
- to promote better communication and cooperation between the educational and legal communities;
- to provide a competitive event in an academic atmosphere; and,
- to promote cooperation among students of various abilities and interests.

Education of high school students is the primary goal of the mock trial program. Healthy competition helps to achieve this goal. However, teachers are reminded of their responsibilities to keep the competitive spirit at a reasonable level. The reality of the adversary system is that one party wins and the other loses, and teachers should be sure to prepare their students to be ready to accept either outcome in a mature manner. Coaches can help prepare students for either outcome by placing the highest value on excellent preparation and presentation, rather than winning or losing the case.

Participants need to be prepared for the agony of defeat as well as how to win with class. Hurt feelings, anger, and frustration are not the objectives of the mock trials. We hope student view the event as a *fun* and exciting learning experience.

Structure of the Competition

A *round* will consist of two trials, which will be scored independently. A coin toss will determine which team will take the prosecution's side, unless the teams have an agreement as to which school will go as which side first. The team that takes the prosecution's role in the first trial will play the defense in the second trial (and vice versa).

Each evaluator's score sheet will represent a ballot. The winner of a *round* is determined by the number of ballots won. Under no circumstances will the evaluators release the score sheets or disclose the winners and/or scores to the teams.

In the event of a tie for number of ballots, we will next look at point differentials (meaning how many points a school won or lost a ballot by). If for any reason there is still a tie, we will then look at cumulative scores.

In the event that there are an uneven number of teams competing in the competition overall, a school chosen by the Coordinator, at her discretion, will be awarded a bye in the affected round.

The rounds in 2019 are scheduled as follows:

PRELIMINARY ROUND #1 – Saturday, November 16th

Students arrive at 8:30, first trial begins at 9:00 a.m.

Trials will be conducted in various courthouses throughout the State (typically Portland and Bangor). Team location assignments TBD once all registration forms are received.

PRELIMINARY ROUND #2 – Saturday, November 23rd

Students arrive at 8:30, first trial begins at 9:00 a.m.

Trials will be conducted in various courthouses throughout the State (typically Portland and Bangor). Team location assignments TBD once all registration forms are received.

SEMI-FINAL ROUND (ROUND #3) – Saturday, December 7th

Students arrive at 8:30, first trial begins at 9:00 a.m.

Trials will be conducted in Portland at the Cumberland County Courthouse.

FINAL ROUND (ROUND #4) – Tuesday, December 10th

Students arrive at 8:30, first trial begins at 9:00 a.m.

Trials will be conducted in Portland at the Cumberland County Courthouse in the Supreme Judicial Courtroom (Courtroom #12) on the Second Floor.

The Case

A. The case consists of the stipulated facts, witness statements, allowable exhibits and legal authorities. The stipulations may not be disputed at trial. Witness statements cannot be changed to create a more favorable fact situation. While students are encouraged to read other cases, materials, articles, etc., in preparation for the mock trial, they may cite only the materials included in the Case Materials. In addition, they may introduce into evidence only those documents provided in the Case Materials.

B. Witness Statements. Each witness is bound by, *but not limited to*, his or her individual witness statement.

1. Witness statements are generally designed so that a witness may be either male or female. Before beginning a trial, teams will exchange witness lists identifying the sex of each witness so that references to such parties will be made in the proper gender. **A copy of the witness lists, with the attorneys' names and their roles, should be made available to each of the three evaluators.**
2. Witness statements are subject to all of the human inaccuracies that people may make in similar real-life situations. This includes distortion and even dishonesty and, therefore, a witness may be cross-examined to verify the "clarity of his/her memory" in making the statement.
3. The witness statements are not intended as complete life histories and, for the most part, information not in the statements will be irrelevant and subject to objection. However, if an attorney's questions solicit unknown information, the witness may supply an answer of his choice as long as it does not contradict other information contained in the statement and does not materially affect the witness's testimony. Witnesses may be questioned on information they may have personal knowledge of which is contained in another witness statement. However, as above, the witness may supply the answer of his choice.

C. Extrapolations. Be advised that judges and evaluators do not look favorably on the use of unfair extrapolations. Furthermore, presiding judges dislike handling these objections.

At the same time, some extrapolations of facts not in the record are allowed since it is virtually impossible to provide witness with detailed answers to every conceivable question that student lawyers can ask.

1. Fair extrapolation that would be allowed is information such as date or place of birth which would be minor "creative license" and allowed to amplify or humanize the case. Only those facts which are **neutral** to both sides of the case are fair extrapolations.
2. Unfair extrapolation that would **not** be allowed includes informational material on particular facts at issue.

3. If you have a question as to whether a particular added fact would be allowable "background information," or if you believe it **might** be unfair extrapolation, do not add the questionable fact. The more the "supplemental" information helps your case, the more cautious you should be in adding it to the witness's testimony. **When in doubt, leave it out!**
4. Under this rule, an attorney may object and assert an unfair extrapolation. The objection may be in the form of a "Beyond the scope of the facts" objection. When an attorney objects to an extrapolation or a witness responds to a question with an answer of no information in the statement of facts, the judge should rule to clarify the course of further proceedings. Such a ruling will be in open court. Possible rulings by a judge may be:
 - a. No extrapolation has occurred.
 - b. An unfair extrapolation has taken place. (This may subject a team to penalty points at the presiding judge's discretion.)
 - c. The extrapolation was fair and did not materially alter facts of the case.
 - d. Ruling taken under advisement. After another question or answer, the judge may rule or respond to a further objection.

The decision of the presiding judge regarding extrapolations or other evidentiary matters is *final*. Student attorneys are advised to compare this rule with Rule 1.C.3.

Presentation of Case

A. Team Eligibility.

1. All team members, with the exception of home-schooled students, must be enrolled in a Maine public or private school in grades 9-12. Individual homeschooled students must play in the school district in which they reside. Each high school may form only one team. In consolidated school districts with more than one high school, all district high schools may, but are not required to, form one team.
2. Team members may only receive formal coaching regarding the year's case and accompanying courtroom decorum and procedure (to include rules of evidence and witness examination structure) by school-authorized teacher and attorney coaches. Students will be deemed ineligible if participating or enrolled in a non-school sponsored mock trial program during the High School Mock Trial Competition preparatory season (August-December).

Participation by an ineligible team member will result in forfeiture of each round in which such participation occurred.

B. Team Size. Teams must be prepared to present both the prosecution's and the defendant's side of the case. Teams must consist of a minimum of six students. For each trial, a minimum of three/maximum of eight attorneys and three witnesses will compete. Both sides of the case (prosecution and defense) must be prepared by the team.

C. Performance. Team members should try to avoid a rigid, mechanical approach in their presentations (i.e., the witness statements are not scripts) while staying within the bounds of honest competition. Remember that your *presentation* is graded, not on the merits of the case.

D. Clerk. A team member should be designated as clerk. Clerks are responsible for calling the court to order, calling and swearing-in witnesses, and timekeeping. Objections are not timed. The clock stops when an objection is made and begins after the presiding judge makes a ruling.

E. Rules of Evidence. All mock trial proceedings are governed by the **National High School Mock Trial Championship Federal Rules of Evidence (Mock Trial Version)**. More complex rules or evidentiary matters should not be raised.

F. Rules of procedure:

1. In any trial, one attorney may not do both opening and closing statements, and a student cannot play both an attorney and witness role in the same trial. No objections may be raised during opening statements or closing arguments.

If a team believes an objection would have been necessary during the opposing team's closing, a student may, following the arguments, raise his/her hand to be recognized by the presiding judge and say, "If I had been permitted to object during closing arguments, I would have objected to the opposing team's statement that" The presiding judge will not rule on this objection. No rebuttal by the opposing team will be heard. The presiding judge and the evaluators will weigh the objection individually.

USE THIS OBJECTION SPARINGLY, IF AT ALL. JUDGES AND EVALUATORS DO NOT LOOK FAVORABLY ON TRIVIAL OBJECTIONS TO AN OPENING OR CLOSING.

2. Direct examination of each witness must be conducted by a different attorney. Cross-examination must also be conducted by a different attorney.
3. Only those attorneys participating in the trial may sit at the counsel table during the round.
4. The attorney examining a particular witness will make the objections on cross-examination of that witness, and the attorney who will cross examine a witness will be the one to make objections on direct examination.
5. The examining attorney may use the witness statements to refresh a witness' recollection or rebut his/her testimony. The statement should not then be introduced as evidence.
6. Re-direct examination is allowed and time allocation comes from total time available for direct examination.
7. Re-cross is allowed and time allocation comes from total time available from cross examination.
8. Rebuttal to defendant's closing argument should be allowed whether time is reserved or not at the beginning of the prosecution's closing, so long as the prosecution has time remaining.
9. Once a trial begins, teachers, attorney coaches, and all other observers may not communicate with, or in way assist, teams.
10. The Defendant may not represent him or herself.
11. **NO** motions of any type or variety are permitted in the Maine State High School Mock Trial Competition. This includes motions disguised as housekeeping matters (i.e. to have all exhibits entered pre-trial or to have a particular witness deemed an expert). This matters are to be addressed as they become relevant during the trial.

Time Allocations

A. Time Sequence. A trial should last approximately two hours. The following time sequence will be enforced:

- Opening Statements: 5 minutes
- Direct Examination and Re-Direct: 24 minutes for all direct (average of 8 min. per witness)
- Cross Examination and Re-Cross: 15 minutes for all cross (average of 5 min. per witness)
- Closing Arguments: 7 minutes

B. Timekeeper. Please make sure your timekeeper is well-trained. The clerk will be the official timekeeper, using a stop watch or a watch with a second hand. The clerk will hold up a card to indicate 3, 2, 1 minute(s), 30 seconds, and 15 seconds remaining for the average-length examination. When average time is up, the clerk will flash the 0:00 card. When the TOTAL TIME (24 minutes for direct examinations, 15 minutes for cross examinations) is up, the clerk will flash the STOP card and keep it up so the attorneys and judges see it.

C. Bench Conferences. Time for bench conferences and extensive questioning from the judge(s) will **not** be counted as part of the allotted times during examination of witnesses.

D. Time Allocations. Although attorneys are not required to use the entire time allotted for each witness or statement/argument, they **cannot** transfer time remaining from one area to another area (e.g., from direct to cross examination). Attorneys can share the section time (meaning, 24 minutes for all 3 directs; you do not have to ensure that each direct is only 8 minutes).

General Rules Of Conduct And Courtroom Decorum

A. Conduct.

1. Food, drink, or gum chewing are **not** allowed in any courtroom. Snacks are to be eaten in the hallways in the break between trials.
2. Mobile devices (cell phones, tablets, etc.) are not permitted to be used during the trial, without prior permission of the Mock Trial Coordinator. It is expected that coaches will collect all such devices pre-trial, and keep them until the trial is complete.
3. Team members (or their families), alternates, coaches, and any other persons directly associated with the team's are **not** allowed to view other teams during the competition.
4. Families of team members are encouraged to observe the competition in a respectful manner. Children must be with an adult at all times.
5. Videotaping and photography will **not** be permitted *except* by prior permission of the Mock Trial Coordinator and the participating teams.

B. Decorum.

1. Always be courteous.
2. Dress appropriately (this means coat and tie for males and skirts/dress pants with blazer for females; females wearing skirts should wear pantyhose to maintain a professional appearance). **No** props or costumes are permitted unless authorized in the case materials.
3. Attorney coaches should instruct student attorneys and team members about relevant aspects of the Code of Professional Conduct so that these tenets of ethical conduct become a part of their preparation for competition.
4. Once a trial begins, teacher sponsors, attorney coaches, and all other observers may **not** object, ask for conferences, or in any way communicate with the team or judges.
5. When answering the presiding judge, say, "Yes, Your Honor," or "No, Your Honor."
6. Stand when speaking in the courtroom as well as when the presiding judge enters or leaves the room.
7. If the presiding judge rules against you on a point in the case, accept the ruling gracefully and act cordially toward the Judge and opposing counsel.
8. Address objections and comments to the presiding judge only.

Judging

Although all judges receive the Mock Trial case materials, rules, and scoring criteria prior to the competition, they may not know the case and rules as well as the participants.

A. Panel Composition. Each courtroom will have a presiding judge and two evaluators, who will use the same criteria in scoring the teams. In the event that particular judges/evaluators do not appear on the date to which they were assigned, ghost ballots will be created by the Mock Trial Coordinator using averages of scores given by judges/evaluators present at that trial.

B. Presiding Judges and Evaluators. All judges and evaluators will award 1-10 points in scoring individual performances using the following criteria:

1. **Attorneys**
 - a. Opening Statement
 - b. Direct Examination/Re-Direct
 - c. Cross Examination/Re-Cross
 - d. Objections
 - e. Closing Statement

2. **Witness**
 - a. Believable
 - b. Knowledge of facts
 - c. Well prepared and responsive

C. Presiding Judges. In addition to acting as scoring judges, presiding judges will conduct the trials and rule on objections. In addition, presiding judges will have the discretion to deduct penalty (maximum of 5) for observed infractions of rules and decorum. Penalty points may be assessed for the following infractions: unfair extrapolations of facts not in the record, stalling on cross examination, failure to follow time allocations, and failure to observe courtroom decorum. This list is not exhaustive.

D. Closing Arguments. Judges should not transform the students' closing arguments into the equivalent of a moot court exercise. Judges should refrain from interrupting the students to ask questions about the application of the legal authorities to the facts.

E. Other Information.

1. The decisions of the judges are final.

2. The judges may not disclose the scores to the teams. Score sheets will be kept by the judge and returned to the Mock Trial Coordinator at the end of the round.

3. Judges are encouraged to discuss their general evaluations and offer suggestions to the teams after the round has been completed.
4. Any questions relative to scoring procedures, as well as perceived rule violations, should be submitted to the Mock Trial Coordinator in writing.

F. Pretrial Matters. To assist in enforcing the competition rules, presiding judges, upon taking the bench before the start of trial, will be responsible for pre-trial matters as follows:

1. The judge will ask each side if it is ready for trial and for each side to provide the judging panel with copies of its witness list and the names of the examining attorneys.
2. The judge will remind all present in the courtroom of the rule prohibiting verbal or written communication between team members and non-team members (coaches, parents, friends, and any other observers) during each trial.
3. The judge will answer any questions regarding housekeeping matters, such as permission to move about the well during Openings, witness examinations, and Closings.
4. The judge will ask the clerk to call the court to order and begin the trial. The clerk will also call and swear in witnesses after opening statements in this manner. "Do you promise that testimony you are about to give will faithfully and truthfully conform to the facts and rules of the mock trial competition?"

Dispute Settlement

1. If any team has reason to believe that a material rules violation has occurred, a member of the team shall communicate the complaint to the presiding judge immediately after the trial is over, before the evaluators turn in their ballots to the Mock Trial Coordinator.
2. The presiding judge will notify the other team and each team will then designate one team member to present its case to the presiding judge and evaluators. Each team member will have three minutes for the presentation to the panel.
3. If the panel determines that a possible rules violation exists or that there exists a legitimate dispute over facts which would constitute a possible rules violation, the judges will be allowed to consider the dispute before announcing their decision. The dispute may or may not affect the final decision, but the matter will be left to the discretion of the judges. Their decision will be FINAL.
4. In the event that a team has reason to believe that a material rules violation has occurred by a judge, it is to be brought to the Mock Trial Coordinator's attention prior to the evaluators submitting their ballots. Once ballots are submitted, no changes to scoring due to rule violations can occur.

Guidelines For Clerk/Time Keepers

1. Arrive 15 minutes prior to the start of the competition to meet the other time keeper, find your seat, and to discuss any questions you may have with the on-site coordinator. The on-site coordinator will direct you to the best timekeeper location within each room.
2. Bring your stopwatch, your time sheet, and your countdown cards! **If you do not have a stopwatch to bring, please contact the Mock Trial Coordinator at least 3 days in advance of competition so that a stopwatch can be provided to you.**
3. Each school will have a clerk/time keeper. Each time keeper is responsible for timing the **opposing team.**
4. Time keepers may time their own team unofficially to serve as a back-up on the official timekeeper. If concerns or discrepancies exist, time keepers should confer and attempt to work out the concerns. If there are any material complaints regarding the timing of your team by the official time keeper, you should document where in the trial this error occurred and how much time is in issue. Bring this complaint to the attention of the on-site coordinator or presiding judge when the score sheets are collected. This will be handled under the dispute settlement procedure outlined in Section VI of the Rules of Competition.

2019 MOCK TRIAL COMPETITION SCORESHEET

Prosecution: _____

Defense: _____

Using whole numbers, rate Prosecution & Defense on a scale of 1-10 (scoring rubric on back of scoresheet).

Points for Prosecution	PART OF TRIAL	Points for Defense
	Opening Statement	
	Direct of Prosecution Witness #1	
	Cross of Prosecution Witness #1	
	Prosecution Witness #1	
	Direct of Prosecution Witness #2	
	Cross of Prosecution Witness #2	
	Prosecution Witness #2	
	Direct of Prosecution Witness #3	
	Cross of Prosecution Witness #3	
	Prosecution Witness #3	
	Direct of Defense Witness #1	
	Cross of Defense Witness #1	
	Defense Witness #1	
	Direct of Defense Witness #2	
	Cross of Defense Witness #2	
	Defense Witness #2	
	Direct of Defense Witness #3	
	Cross of Defense Witness #3	
	Defense Witness #3	
	Closing Argument	
	TOTAL POINTS	

Judge/Evaluator's Name: _____ Date: _____ **1st/2nd trial** (Circle One)

SCORING RUBRIC

Teams will be rated on a scale of 1-10. The evaluator is scoring STUDENT PERFORMANCE in each category. The evaluator is NOT scoring the legal merits of the case.

On a scale of 1-10 (with 10 being the highest), rate the performance of the two teams in the categories on the score sheet. Each category is to be evaluated separately. **DO NOT GIVE FRACTIONAL POINTS.**

<u>POINTS</u>	<u>PERFORMANCE</u>	<u>CRITERIA: evaluating student performance</u>
1-2	Not Effective	Unsure of self, illogical, uninformed, not prepared, speaks incoherently, ineffective in communication.
3-4	Fair	Minimally informed and prepared. Performance is passable, but lacks depth in term of knowledge of task and materials. Communication lacks clarity and conviction.
5-6	Good	Good, solid, but less than spectacular performance. Can perform outside the script but with less confidence than when using script. Logic and organization are adequate. Grasps major aspects of the case, but does not convey mastery of the case. Communications are clear and understandable, but could be stronger in fluency and persuasiveness.
7-8	Excellent	Fluent, persuasive, clear, and understandable. Organizes materials and thoughts well, and exhibits mastery of the case and materials.
9-10	Outstanding	Superior in qualities listed for 7-8 point performance. Thinks well on feet, is logical, keeps poise under duress. Can sort out essential from nonessential facts and use time effectively to accomplish major objectives. Demonstrates the unique ability to utilize all resources to emphasize vital points of the trial.