



# INSTRUCTIONS FOR EVALUATING STUDENT PERFORMANCES

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## I. INTRODUCTION

The purpose of the National Trial Competition is to foster the development of trial advocacy skills. The scoring criteria is designed to help you evaluate the student advocates competing in the round you judge, as well as to ensure uniformity of criteria used in judging. Please keep these criteria in mind as you study the problem in preparation for judging the competition. The score sheet is, for the most part, self-explanatory; however, some additional comments are necessary to explain standards and specific rules of the competition.

## II. THE CASE

You have been provided with a copy of the problem. Each team may use only the competition case material provided and reasonable inferences drawn from such material in developing its case. The ethical responsibilities, as well as the practicalities of the competition situation, require that participants be restricted to the materials provided.

## III. THE MERITS OF THE CASE

The merits of the case are **IRRELEVANT**. It is essential that in judging a trial you do not take into account the merits of the case. It is immaterial to your decision whether the evidence in the case merits a decision for the prosecution or for the defense. The participants are not allowed to select which side of the case they must argue; the participants cannot engage in plea discussions or settlement negotiations; they cannot investigate the case beyond the materials provided; they usually cannot select their witnesses; and they cannot create or manufacture evidence or exhibits missing from the problem. Your decision regarding the outcome of the trial should be determined solely by the manner in which the student advocates handle the facts with which they have been provided.

## IV. MOTIONS

The rules of the competition permit participants to make procedural motions before and during the trial. Through such motions, participants are able to demonstrate their appreciation of appropriate motions and responses. The legal arguments in support of such motions should not become debates. In light of the limited purposes of motions, the presiding judge should ensure that time spent on such motions is kept to a minimum. Written motions are not permitted.

## V. EVIDENCE OUTSIDE THE RECORD

All witnesses recruited for the competition are given copies of their deposition or statement and exhibits pertinent to his/her testimony prior to the pre-trial conference with the student advocate who will present that witness.

The certainties of the witness's knowledge are contained in the depositions or written statements provided. Generally, each witness knows nothing beyond the facts contained in that statement. However, the rules of the competition allow a team to provide witnesses with information provided in the case materials ("record"). The rules of the competition allow a witness to make reasonable inferences from the materials provided only as to background on nonmaterial facts. The rules of the competition specifically prohibit participants from suggesting or encouraging testimony about material facts outside the record. There is a protest procedure designed to respond to alleged violations of this rule. (See paragraph VIII, below.)

If a witness makes a statement of fact not contained in his or her witness statement, and that statement of fact is not a reasonable inference, the witness must admit, if questioned on the subject, that the statement does not appear in his or her sworn statement. Additionally, if the witness testifies to a fact outside of the case materials and the fact was furnished by counsel during the wood-shedding session, the witness must admit, if questioned on that subject, that he or she was so instructed by counsel.

## **VI. INVALID OBJECTION**

The court 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 court to expend valuable time reading the materials during the competition. Cross-examination and closing arguments provide adequate opportunities for counsel to demonstrate effectively that the witness has strayed from the acknowledged facts of the case.

## **VII. SCORING THE PARTICIPANTS**

Please keep the following criteria in mind when you score the participants:

- A. Counsel should not gain or lose points because of a particular witness's quality or lack of facility.
- B. Counsel should be evaluated solely on demonstration of trial advocacy skills.
- C. Counsel should conduct the trial as if a jury were present, regardless of whether a jury is actually impaneled for the trial.

Performance at all preliminary trials will be evaluated by a judging panel of at least three members. Before the beginning of the trial, one of the panel members will be designated as "presiding judge" and will make rulings as necessary. The two evaluating judges and the presiding judge will score each of the participants. The outcome of the trial will be determined by tallying the score sheets of all three judges. Scoring will be kept confidential until the NTC Committee allows participants to examine their ratings.

In determining the outcome of the round, you must total the points for each team and vote for the team that demonstrated the better courtroom skills. *Ties are not permitted.* In the unlikely event that total points are equal, you must re-evaluate your score sheet. Please be sure that the team chosen to win has demonstrated the better courtroom skills.

## **VIII. PROTESTS**

Judges are involved in the protest procedures only if it is alleged that a participant has violated the Rules concerning evidence outside the record as described generally in paragraph V, above. Judges are involved in the protest procedure only to the extent of notifying the chair of the competition of the protest. *Protests must be made to the presiding judge within five minutes of the completion of the round or be waived.* The bailiff shall keep track of this five-minute period.

If a protest is lodged within the five minute period, the presiding judge should send the bailiff to inform the chair of the competition. Judges shall not be involved in hearing the protest. The chair of the competition will hear the protest and make a ruling thereon. The chair will advise the judges of the ruling before the judges prepare their final evaluations of the teams' performances.

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