

COMPETITION RULES 2020-2021

THE HERBERT WECHSLER NATIONAL CRIMINAL MOOT COURT COMPETITION

The Advocacy Institute at the University at Buffalo School of Law and the Buffalo Moot Court Board (BMCB) present the following rules to ensure that the Herbert Wechsler National Criminal Law Moot Court Competition (“the Competition”) is a valuable educational experience that develops law students' written and oral appellate advocacy skills, and to ensure that the Competition is carried out in a fair, reliable, and efficient manner.

- a) All participating schools must be accredited by the American Bar Association.
- b) Registration. Any school intending to compete in the Competition must register through the BMCB website and submit the registration fee by the deadline specified on that website.
 - i. Field. The field will be full when thirty-two (32) teams have registered. The Advocacy Institute reserves the right to increase the number of competing teams.
 - A. In the event that the field is not filled by the close of the registration period, schools that have requested permission to enter a second team will be notified that they may do so. University at Buffalo will have the first right to send a second team if they so choose. All other second teams will be chosen in the order in which their requests to send a second team were received, until the entire 32 team field is complete.
 - ii. Notification after the Deadline. Schools that request to participate after the registration deadline may be allowed to compete at the discretion of the BMCB if the field is not yet full.
 - iii. Refunds. The BMCB will *not* refund registration fees to any team that withdraws from the competition *after* **Friday, January 31, 2021**. A full refund will be sent to teams that withdraw *on or before* **Friday, January 31, 2021**.
- c) Submission of Briefs. Teams successfully registered for the competition must submit a brief meeting the substantive and formative requirements set forth in Rule III below in accordance with the following time and submission requirements.
 - i. Electronic Submission. For the purpose of the BMCB’s distribution of all briefs to competitors via the BMCB’s website as described in Rule III (d), each team must submit one (1) copy of its brief via email in PDF format, with no names or individual identifying markers. The Team Number must be stated on the Brief Cover.

A. The brief must be emailed to buffalomootcourtboard@gmail.com no later than 11:59 p.m. EST on **Friday, March 5, 2021**. The brief must be submitted as a pdf document. A hard copy submission is not required.

- ii. Ethical Certifications. By submitting a brief, each team certifies that the brief was prepared in accordance with the BMCB's rules governing the Competition and represents the work product solely of the named members of the team.

II. TEAMS

- a) Number. A school may enter up to two (2) teams consisting of a maximum of three (3) members each. If a team has two members, then the two team members who write the brief shall be the same two team members who present oral argument. If a team has three members, all three members must participate in researching, writing, and editing the brief. Each member of a three person team must present an oral argument at least once during the preliminary rounds.
- b) An alternate may present oral argument **ONLY** in the case of an emergency and **with prior approval of the BMCB**.
 - i. In the event that a team member is unable to argue after commencement of the Competition and the team has not brought an alternate, the remaining team member may elect to proceed through one of two (2) options.
 - 1. If the remaining team member is prepared to argue her/his partner's issue s/he may do so and receive a separate oral argument grade for each issue. Choosing this option will allow the remaining team member to advance through the Competition as if he/she were a team and to remain eligible to receive all of the available awards.
 - 2. If the remaining member is unable to argue her/his partner's issue, s/he may still argue his/her single issue. By choosing this second option, the remaining team member will lose the ability to advance, but s/he will still be eligible for the Best Brief, Best Oralist and Best Sportsmanship awards.
 - ii. There shall be no replacement of team members after service of the brief except with express consent of the BMCB.
- c) Team Member Requirements. No team member may presently have a law degree at any level (e.g. LLB, LLM, JD, JSD) from any country. Team members must be fully enrolled full time students in the J.D. program at the law school that they represent.
- d) Team Numbers and Briefing Assignments. A random number will be assigned to each team by the BMCB. These numbers will be used throughout the Competition to preserve the anonymity of the names of the school in order to ensure fairness and the absence of any potential bias.

III. BRIEFS

- a) Assignment of Sides. The brief shall be a written argument in support of either petitioner or respondent addressing the substantive questions presented by the Competition's Problem. The BMCB will assign the side that each team shall represent for the written brief. If two teams are entered from one school, one team will be assigned to brief the position of petitioner and one team will be assigned to brief the position of respondent.
- b) Brief Format
 - i. Electronic Format: All briefs will be submitted solely in electronic PDF format to buffalomootcourtboard@gmail.com with the subject of the email being "Team [number] – [Respondent/ Petitioner] Brief." Paper copies will not be required.
 - ii. Cover Page. The cover of the brief shall be identified ONLY by the team's number. No information that would suggest the identity of the team members or the school may appear on the Cover or elsewhere in the brief.
 - iii. Font and Margins. The type font and size shall be Times New Roman 12 pt. The briefs shall be portrait oriented, 8 ½ by 11 inch letter size, with 1" margins on all sides.
 - iv. Length. The briefs shall not exceed forty (40) pages, INCLUSIVE of cover pages, questions presented, table of authorities, table of contents, statement of the facts, summary of the argument, and appendices. Note that an appendix is optional for all briefs, and no points will be deducted for omitting an appendix. In computing the overall length of the brief, each inch of single-spaced footnotes, single-spaced quotations and single-spaced headings will be counted as two (2) inches of text.
 - v. Citations. All citations shall be complete and in the form prescribed in the most recent edition of the Harvard Law Review Association's Uniform System of Citation (Bluebook).
- c) Brief Distribution to Participants. Following the expiration of the time period provided in these rules for the submission of the team's briefs, all briefs will be posted on the BMCB's website the following week. Posted briefs will be identified only by team number and not by the names of team members or schools.
- d) Revisions. A team may NOT revise its brief after submission to the BMCB.

- e) Content. Competitors are always to assume that there are no procedural, jurisdictional, or other obstacles to the Court's consideration of the substantive issues that are raised by the Competition Problem's "Questions Presented." Briefs should therefore be directed exclusively to the substance of the legal issues raised by the Questions Presented.

IV. ORAL ARGUMENT

- a) Order of Proceedings:

Each team will participate in two preliminary rounds. Competitors will argue one preliminary round on brief and one preliminary round off brief. The BMCB will randomly assign what round will be on/off brief. In the event that an odd number of teams enter the competition, the BMCB reserves the right to take the steps necessary to ensure a fair and competitive event including, but not limited to, automatically advancing the team with the best brief score to the quarterfinal round.

1. The eight teams with the highest combined oral and brief scores from the preliminary rounds will be selected to advance from the preliminary rounds to the quarterfinal round.
2. Each team selected to advance from the quarterfinal round will participate in one semi-final round.
3. The two teams to advance from the semi-final round will participate in the final round.

- b) Identification of Teams. A team member making the argument will state his or her name and team number. Team members SHALL NOT identify the school they represent in any manner during any round of oral argument through verbal communications, apparel, folders, pins, etc.

- c) Oral Argument Requirements. Oral arguments shall be limited to thirty (30) minutes per team. The speakers may allocate their time between each oralist as they see fit, so long as each individual team member presents oral argument for at least ten minutes. Judges may allow additional time to any participant at their discretion.

- d) Rebuttal.

- i. Petitioners will be allowed up to two minutes of rebuttal time. The full time may be subtracted from one team member's time or the subtraction may be divided between the two team member's times. Rebuttal time will be apportioned only in thirty second increments. Division of the time to be subtracted from each team members' time must also be apportioned in thirty second increments.
- ii. ONLY ONE member of the team may rebut. Rebuttal should be confined to addressing points raised during the respondent's argument. Questions may be posed to the speakers by the judges during rebuttal.

- iii. If a team elects to take rebuttal time they MUST notify the court clerk prior to beginning the round how much, if any, time they would like to reserve. FAILURE TO NOTIFY THE CLERK WILL BE CONSIDERED A WAIVER OF REBUTTAL TIME. THIS RULE WILL BE STRICTLY ENFORCED.
- e) Conflicts. If a competitor happens to personally know a judge in a capacity that leads them to believe that the judge may not be able to impartially assess their performance versus the performance of other competitors in the round, they must notify the BMCB member serving as clerk or host for that round immediately so arrangements can be made to recuse the judge and assign a new judge. Failure to notify the BMCB of a competitor's personal acquaintance or familiarity with a judge may result in disqualification.

V. GRADING POLICY

- a) Briefs. Each brief will be graded by three brief graders. Grading will be on a 100 point scale. The score assigned to each brief will be the average of the scores submitted by each of the three graders for that brief. Except as may be necessary in connection with the breaking of a tie pursuant to Rule V(c), the score on the brief will be used only to determine which teams will advance from the preliminary rounds to the quarterfinal round. The score on the brief will comprise fifty percent (50%) of a team's overall score in each of the preliminary rounds.
- b) Oral Argument. During the oral arguments, judges will be rating each participant's speaking ability, ability to respond to questions, ability to deal with facts and issues, substantive content of argument, overall persuasiveness, and professional demeanor. Each judge will be provided with a bench brief outlining the relevant issues. Judges should not ask, nor should competitors mention, whether competitors are arguing on brief or off brief. Grading will be on a one hundred (100) point scale.
 - i. Preliminary Rounds. The oral argument scores in the two preliminary rounds will comprise fifty percent (50%) of a team's overall score, and the brief will comprise 50%.
 - ii. Quarterfinal Round. The eight (8) teams receiving the highest combined brief and preliminary round oral argument scores will advance to the quarterfinal round. Quarterfinalists will be announced at the conclusion of the preliminary rounds. Teams will be ranked one (1) through eight (8) based on the combined brief and

preliminary round oral argument scores. Teams will then be placed in a bracket with the highest scoring teams facing the lowest scoring teams (1 vs. 8, 2 vs. 7, 3 vs. 6, 4 vs. 5). The higher seeded team will be assigned to argue on brief, and the lower seeded team in the pairing will be assigned to argue off brief. A team advances from the quarterfinal round to the semi-final round by receiving a higher oral argument score than their courtroom opponent. Except as necessary in connection with the breaking of a tie pursuant to Rule V(c)(ii), only a team's performance in the quarterfinal round oral argument will be used to determine which team will advance to the semi-final round.

- iii. Semi-Final Round. The four (4) teams that advance to the semi-final round will be the winners of each individual courtroom oral argument competition in the quarterfinal round. Semi-finalists will be announced at the conclusion of the quarterfinal round. In the semifinal round, the winner of the 1 vs. 8 quarterfinal matchup will face the winner of the 4 vs. 5 matchup. The winner of the 2 vs. 7 matchup will face the winner of the 3 vs. 6 matchup. The higher seeded team in each semi-final pairing will be assigned to argue on brief, and the lower seeded team in each pairing will be assigned to argue off brief. Except as necessary in connection with the breaking of a tie pursuant to Rule V(c)(ii), only the teams' performance in the semi-final round oral argument will be used to determine which team will advance.
- iv. Final Round. The two (2) teams that advance to the final round will be the winners of each individual courtroom oral argument competition of the semi-final rounds. Finalists will be announced at the conclusion of the semi-final round. The position of respondent or petitioner will be randomly assigned using a predetermined method. The winner of the final round will be determined by the oral argument scores for the final round, and thus the Competition will be announced at the Awards Ceremony.

c) Ties.

- i. If, after the preliminary rounds, it becomes necessary to resolve a tie or ties between two or more teams in order to determine which eight (8) teams will advance to the quarterfinal round, ties will be resolved as follows:
 - 1. The tied teams will be ranked by their oral argument scores and the teams with the better oral argument scores will be selected to advance;
 - 2. If two or more ties still remain tied after consideration of the oral argument scores, and the full eight (8) member complement of teams for the quarterfinal rounds has not yet been selected, the remaining tied teams will be ranked by their brief scores and the teams with the better brief score will be selected to advance;
 - 3. If teams remain tied after consideration of both the oral argument scores and the brief scores and the full eight (8) member complement of teams for the quarterfinal rounds has not yet been selected, any remaining ties

may be broken (with the consent of each member of the teams) by a coin toss, or by an elimination round before a panel of judges selected by the BMCB, or by any other means the BMCB deems fair and acceptable under the circumstances considering the nature of the tie, time constraints, and the best interest of the Competition.

ii. After the eight (8) teams that will advance to the quarterfinal round have been determined, ties that may affect team ranking within the quarterfinal round will be broken as follows:

1. The team with the better oral argument score will be the higher ranked team.
2. If teams remain tied after consideration of the oral argument scores, the team with the better brief score will be the higher ranked team.
3. If teams remain tied after consideration of both the oral argument scores and the brief scores, a coin toss will determine which team will be the higher ranked team.

iii. If a tie occurs during the later rounds of the Competition (the quarterfinal, semi-final or final rounds), the team to advance will be chosen based on which team receives a higher score from two of the three judges. If the teams still remain tied, the team with the higher brief score will advance.

d) Awards. Awards will be given for Best Oralists, Best Briefs, Best Sportsmanship, First Place Team, and Final Runner-up Team.

i. Best Oralists:

1. Best Final Round Advocate – Award presented to one oralist from the final round ONLY, chosen by the judges panel as exemplary.
2. Best Overall Oral Advocate – The individual with the highest two round average oral scores, using each individual's highest two oral scores from the preliminary rounds, the quarter finals, and the semi-finals.
3. 2nd Best Overall Oral Advocate – The individual with the second highest two round average oral scores, using each individual's highest two oral scores from the preliminary rounds, the quarter finals, and the semi-finals.
4. 3rd Best Overall Advocate – The individual with the third highest two round average oral scores, using each individual's highest two oral scores from the preliminary rounds, the quarter finals, and the semi-finals.

ii. Best Briefs:

1. Best Brief – This award will be issued to the team whose brief received the highest average score of all the briefs in the Competition.
2. Runner-up Best Brief – This award will be issued to the team whose brief received the second highest average score of all the briefs in the Competition.

3. Third Best Brief -- This award will be issued to the team whose brief received the third highest average score of all the briefs in the Competition

iii. Ryan J. Mullins Memorial Award – The recipient of this award is nominated by Judges in the preliminary rounds, and BMCB will select from the nominees. It goes to the competitor that best embodies the spirit of the competition. (i.e., professionalism, courtesy, collegiality, integrity, preparation, excellence)

VI. LIMITATIONS ON THE USE OF SOURCES AND ASSISTANCE

a) Outside Assistance.

- i. Teams may hold preliminary general discussions of the issues with law faculty from their school, or with their coach if that coach is not a member of the faculty. If a school has entered two teams, the teams may discuss the issues amongst themselves and with the law faculty and their coach. These preliminary discussions of the issues may not include advice on what the arguments should be, on how to present or structure or organize the arguments, or any other advice that pertains to how to write the brief. No team shall receive any assistance in the writing or editing or proofreading of its brief. This prohibition includes receiving assistance from, or sharing, or comparing research and work product or editing drafts with members of a competing team FROM THE SAME SCHOOL.
- ii. Team members and coaches may not read, review, consult, listen to, watch, or otherwise deliberately seek to obtain substantive knowledge of the contents of any materials specifically proscribed for use in the Competition in a particular year.

- b) Oral Argument Practice. Schools may not conduct practice or preliminary rounds with students from other schools who are participating in the Competition. Schools that have more than one team in the competition may conduct joint oral argument practices with each of their teams appearing against each other. Coaches for teams may participate in oral argument practice rounds and may provide feedback on substance and style. Schools may use law faculty or outside attorneys as guest judges for oral argument practice rounds, and these guest judges may provide feedback on substance or style to the competitors.

VII. PENALTIES FOR VIOLATIONS

- a) Any teams submitting briefs after the due date and time (See Rule I(c)(i)) will be penalized ten (10) points off the brief score for each 24 hours period that it is late. Briefs submitted more than three days (72 hours) after the deadline, without advance explanation, will be given a brief score of zero.

- b) Any brief which exceeds the length requirements set forth in Rule III(b)(iv) will be penalized three (3) points for each page by which it exceeds that length.
- c) Violation of any other rule may be penalized by a point penalty or expulsion from the competition at the discretion of the BMCB.

VIII. QUESTIONS

- a) All questions regarding the rules must be directed to:

Wechsler Competition Chair
Buffalo Moot Court Board
University at Buffalo School of Law
O'Brian Hall, Buffalo, NY 14260
buffalomootcourtboard@gmail.com

- b) The BMCB may amend these rules as necessary to ensure that the Competition is fair and proper. The BMCB reserves the right and discretion to interpret these rules and resolve any and all disputes that arise with respect to the Competition.