

COMPETITION RULES

THE HERBERT WECHSLER NATIONAL CRIMINAL MOOT COURT COMPETITION

Buffalo Moot Court Board (hereinafter “the BMCB”) presents the following rules to ensure that the Herbert Wechsler National Criminal Law Moot Court Competition (hereinafter “the Competition”) is carried out in a fair, reliable, and efficient manner.

I. ELIGIBILITY FOR COMPETITION

- 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 **Friday January 31, 2020**. Schools are urged to notify the BMCB Wechsler Competition Chair as soon as possible of their intent to participate.
 - i. **Field.** The field will be full when thirty-two (32) teams have registered. The BMCB reserves the right, with notice, 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 28-team field is complete.
 - ii. **Notification after the Deadline.** Schools that notify the BMCB after the 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 fee deposits to any team that withdraws from the competition *after* **Friday, January 31, 2020**. A full refund will be sent to teams that withdraw *on or before* **Friday, January 31, 2020**.
- 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 also submit one (1) copy of its brief via email in PDF format, with no names or identifying markers.

A. The brief must be emailed to buffalomootcourtboard@gmail.com no later than 11:59 p.m. EST on **Wednesday, March 11, 2020**. A hard copy submission is not required.¹

- 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 two (2) members each. The two (2) team members who write the brief shall be the same two (2) team members who present oral argument.
- b) An alternate may present oral argument **ONLY** in the case of an emergency and **with approval of the BMCB**.
 - i. In the event that a team member is unable to argue after arriving at the Competition and the team has not brought an alternate, the remaining team member may elect to proceed through one of two (2) options.
 - A. 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.
 - B. 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. Team members must be fully enrolled in the law school that they represent.
- d) Team Numbers. After the second round of question responses are posted online, 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 bias.

¹ Rule amended in the 2015-2016 Competition year to go "paper free" and allow all submissions to be submitted electronically, included but not limited to: the competitor briefs, registration form, and registration payment.

III. BRIEFS

- a) Choosing 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. Teams will be assigned whether they brief the position of petitioner or respondent. If two (2) teams are entered from one (1) school, one (1) team must brief the position of petitioner and one (1) team must brief the position of respondent.
- b) Brief Format
 - i. Electronic Format: As of the 2016 Competition, ALL briefs will be submitted solely in electronic PDF format to buffalomootcourtboard@gmail.com with the title "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 or its school may appear 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 thirty (30) 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. Jurisdiction. The problem will clearly set forth the jurisdiction; therefore, briefs shall be in the format of the jurisdiction specified. There need not be any formal statement of jurisdiction.
 - vi. 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:**

- i. On the morning of the day appointed for oral argument, each team will participate in (2) 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 Society 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.

- A. Each team selected to advance from the preliminary rounds will participate in one (1) quarterfinal round. Each team selected to advance from the quarterfinal round will participate in one (1) semi-final round. 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, meaning fifteen (15) minutes to be allocated to each speaker. Judges may interrupt arguments to ask questions and may allow additional time to any participant.

- d) **Rebuttals.**

- i. Petitioners will be allowed up to two (2) minutes of rebuttal time. The full time may be subtracted from one (1) team member's time or the subtraction may be divided between the two (2) team member's times. Rebuttal time will be apportioned only in thirty (3) second increments. Division of the time to be subtracted from each team members' time must also be apportioned in thirty (3) second increments.
 - ii. ONLY ONE (1) member of the team may rebut. Rebuttal should be confined to 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 they must notify the clerk immediately so arrangements can be made to recuse the judge and assign a new judge. Failure to notify the Society of a competitor's personal acquaintance or familiarity with a judge may result in disqualification.
- f) 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." Oral arguments therefore should likewise be directed exclusively to the substance of the legal issues raised by the Questions Presented and that they should not inquire into any procedural, jurisdictional, or other such issues.

V. GRADING POLICY

- a) Briefs. Several brief graders will grade each brief. Brief graders will focus primarily on a team's knowledge of the facts and legal principles, use of authority, logic, reasoning, and persuasiveness. Grammar, style, citation format, and conforming to the proper court rules will also be examined. Grading will be on a one hundred (100) point scale. 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 forty percent (40%) of a team's overall score.
- 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, and overall persuasiveness. 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. Only the oral argument scores for the two (2) preliminary rounds will be used to determine which teams will advance from the preliminary rounds to the quarterfinal round. These scores will comprise sixty percent (60%) of the team's overall score. The oral argument scores from the preliminary rounds will not be used to determine a team's advancement to the semi-final round or final round.
 - 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 position of respondent or petitioner will be randomly assigned using a predetermined method. 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 the teams' performance in the quarterfinal round oral argument will be used to determine which team will advance.

- iii. **Semi-Final Round.** The four (4) teams that advance to the semi-final round will be the winners of each individual courtroom 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 position of respondent or petitioner will be randomly assigned using a predetermined method. A team will advance from 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 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 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, and thus the Competition will be announced at the Awards Banquet.

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:
 - A. 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;
 - B. 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;
 - C. 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:
 - A. The team with the better oral argument score will be the higher ranked team.
 - B. If teams remain tied after consideration of the oral argument scores, the team with the better brief score will be the higher ranked team.
 - C. 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:
 - A. Best Advocate – Award presented to one oralist from the final round ONLY, chosen by the judges panel as exemplary.
 - B. 1st Best Advocate – Highest scoring preliminary round oral advocate.
 - C. 2nd Best Advocate – Second highest scoring preliminary round oral advocate.
 - D. 3rd Best Advocate – Third highest scoring preliminary round oral advocate.
 - ii. Best Briefs:
 - A. Best Petitioner Brief – One award will be issued to the highest scoring Petitioner Brief.
 - B. Best Respondent Brief – One award will be issued to the highest scoring Respondent Brief.
 - C. Ryan J. Mullins Memorial Award – Recipients of this award are nominated by Judges in the preliminary rounds. It goes to the competitor that best embodies the spirit of the competition. (i.e., sportsmanship)

* The Oral Advocacy and Best Sportsmanship Awards will be based solely on oral scores obtained during the preliminary rounds. Thus, failure to advance beyond the preliminaries will not preclude receipt of these awards.

VI. LIMITATIONS ON THE USE OF SOURCES AND ASSISTANCE

a) Outside Assistance.

- i. No team shall receive any assistance in the writing of its brief or in preparing for oral argument. This prohibition includes receiving assistance from, or sharing, or comparing research and work product with members of a competing team **FROM THE SAME SCHOOL**. This rule shall not be construed to prevent preliminary general discussion of the issues with faculty, the judging of an intramural tournament by faculty or others, or the giving of general critiques on such arguments by judges, provided such discussion, judging, or critique shall **NOT** change the substance of the brief or oral argument.
- 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 that have been or that may be filed in the Supreme Court of the United States, and/or any further proceedings that may be held in the Supreme Court, in or relating to any actual cases before the Supreme Court that are the basis for the Competition Problems, as well as any and all other materials specifically proscribed for use in the Competition in a particular year. This prohibition applies to any and all briefs, petitions, replies, or other filings submitted to the Supreme Court by any party of amicus curiae, or by the United States, or by any other person or entity at any phase or state of the Supreme Court's proceedings in those matters, including (but not limited to) any filings pertaining to a petition for certiorari and any and all motions, as well as any recording or transcript of any proceedings taking place before the Supreme Court.

b) Intramural Competitions. Schools may conduct preliminary rounds among their own students to determine team membership.

c) Oral Argument Practice. Schools may not conduct practice or preliminary rounds with students from other schools who are coming to the Competition. **NO** member, coach or faculty advisor of a team participating in the Competition may attend any argument of any other team or receive information about any such argument from any other person.

VII. PENALTIES FOR VIOLATIONS

- a) Any teams submitting briefs after **WEDNESDAY, March 11, 2020** (See Rule I(c)(i)) will be penalized ten (10) points off the brief score for each business day it is late. Briefs submitted after **FRIDAY, March 13, 2020** without advance explanation will be returned. Returned briefs receive a brief grade of zero (0).

- 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.