



# NEW MEXICO HIGH SCHOOL MOCK TRIAL PROGRAM

# Rules

**(2009 changes are highlighted in yellow)**



CENTER FOR CIVIC VALUES

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# I. RULES OF THE COMPETITION

The Rules of the Competition are based upon the rules of the National High School Mock Trial Championship. Text in italics represents additions or modifications specific to New Mexico.

## A. ADMINISTRATION

### Rule 1.1. Rules

All trials are governed by the *New Mexico* High School Mock Trial Rules of the Competition and the National High School Mock Trial Rules of Evidence.

Questions or interpretations of these rules are within the discretion of the *mock trial coordinator*, whose decision is final.

### Rule 1.2. Code of Conduct

The rules of competition, as well as proper rules of courthouse and courtroom decorum and security, must be followed. The *Center for Civic Values (CCV)* possesses discretion to impose sanctions, up to and including forfeiture or disqualification, for any misconduct, occurring while a team is present for the competition, flagrant rule violations or breaches of decorum which affect the conduct of a trial or which impugn the reputation or integrity of any team, school, participant, court officer, judge or the mock trial program.

### Rule 1.3. Emergencies

During a trial, the presiding judge shall have discretion to declare an emergency and adjourn the trial for a short period of time to address the emergency.

In the event of an emergency that would cause a team to be unable to continue a trial or to participate with less than six members, the team must notify *CCV* as soon as is reasonably practical. If *CCV* or its designee(s), in its sole discretion, agrees that an emergency exists, *CCV*, or its designee(s), shall declare an emergency and will decide whether the team will forfeit or may direct that the team take appropriate measures to continue any trial round with less than six members. A penalty may be assessed.

A forfeiting team will receive a loss and points totaling the average number of the ballots and points received by the losing teams in that round. The non-forfeiting team will receive a win and an average number of ballots and points received by the winning teams in that round. All fractions resulting from averaging shall be rounded down to the nearest whole number.

Final determination of emergency, forfeiture, reduction of points, or advancement will be made by *CCV*.

### Rule 1.4. Inclement Weather Policy

*In the event of inclement weather, all participants are advised to check the CCV website at [civicvalues.org](http://civicvalues.org) for information regarding delays or cancellations. If the majority of teams*

*scheduled to compete in a given region or scheduled to compete at state finals are able to make their way to the competition site, the event will go forward as scheduled, unless the building has been closed by local authorities. If the building has been closed by local authorities, every attempt will be made to reschedule the event.*

## **B. THE PROBLEM**

### **Rule 2.1. The Problem**

The problem is an original fact pattern which may contain any or all of the following: statement of facts, indictment, stipulations, witness statements/affidavits, jury charges, exhibits, etc. Stipulations may not be disputed at trial. Witness statements may not be altered.

The problem shall consist of at least three witnesses per side, all of whom shall have names and characteristics that would allow them to be played by either males or females, *unless otherwise determined by CCV*. Three witnesses must be called.

### **Rule 2.2. Witness Bound by Statements**

Each witness is bound by the facts contained in her/his own witness statement, the Statement of Facts, if present, and/or any necessary documentation relevant to her/his testimony. Fair extrapolations may be allowed, provided reasonable inference may be made from the witness' statement. If, in direct examination, an attorney asks a question which calls for extrapolated information pivotal to the facts at issue, the information is subject to objection under Rule 2.3, "outside the scope of the problem." A witness is not bound by facts contained in other witness statements.

### **Rule 2.3. Unfair Extrapolation**

A fair extrapolation is one that is neutral. Unfair extrapolations are best attacked through impeachment and closing arguments and are to be dealt with in the course of the trial. *(Some judges, for instance, prefer to deal with an unfair extrapolation objection merely by instructing the objecting attorney to address the issue on cross-examination.)*

If a witness is asked information not contained in the witness' statement, the answer must be consistent with the statement and may not materially affect the witness' testimony or any substantive issue of the case.

Attorneys for the opposing team may refer to Rule 2.3 in a special objection, such as "unfair extrapolation" or "This information is beyond the scope of the problem."

Possible rulings by a judge include:

- a) no extrapolation has occurred;
- b) an unfair extrapolation has occurred;
- c) the extrapolation was fair; or,
- d) ruling is taken under advisement.

The decision of the presiding judge regarding extrapolations or evidentiary matters is final.

When an attorney objects to an extrapolation, the judge shall rule in open court to clarify the course of further proceedings.

#### **Rule 2.4. Gender of Witnesses**

*Unless otherwise stated, all witnesses are gender neutral. Personal pronoun changes in witness statements indicating gender of the characters may be made. Any student may portray the role of any witness of either gender.*

#### **Rule 2.5. Voir Dire**

*Voir dire examination of a witness is not permitted.*

### **C. TEAMS**

#### **Rule 3.1. Team Eligibility**

*Each public, private or home school in New Mexico may register one or more teams in the competition. All team members must be enrolled in grades 9 - 12 in the registering school and must meet New Mexico State Board of Education criteria for participation in an extra-curricular activity. Upon request, CCV may grant permission for a middle school or junior high student to participate on a high school mock trial team, provided that the student is enrolled in a class or receiving high school credit at the high school.*

*The competition is sanctioned by the New Mexico Activities Association, and it is the teacher advisor's responsibility to follow the necessary procedures for obtaining approval of eligibility.*

*Participation by an ineligible team member shall result in forfeiture of each round in which such participation occurred. An ineligible team member may observe the competition and, as a spectator, has the same restrictions as those outlined for teacher advisors, attorney coaches, and any other observers.*

*Only those attorneys who have signed the Attorney Coach Agreement provided by CCV shall be eligible for participation as attorney coaches. CCV reserves the right, in its sole discretion, to deny participation by an attorney.*

*Only those team members (teacher advisor, attorney coach, and students) who have signed the Code of Ethical Conduct provided by CCV shall be eligible for participation. Violation of the Code of Ethical Conduct by any team member may result in sanctions, including but not limited to, that team's immediate eviction from the competition, forfeiture of awards (if applicable), and debarment from future competitions.*

#### **Rule 3.2. Team Composition**

*Teams consist of a minimum of six and a maximum of 12 members assigned to roles representing the Prosecution/Plaintiff and Defense/Defendant sides. Only six members may participate in any given round. (See Rule 3.3 for further explanation referring to team participation.)*

*At Nationals, student timekeepers may be provided by the teams; however, these persons are not considered "official timekeepers" in the tournament.*

*At no time may any team for any reason substitute unofficial team members for official team members. On a form provided by CCV, teams will submit a Team Members' List. The List will become official at the time of onsite registration for state finals.*

*All student team members shall be issued name tags displaying their schools' codes, which must be worn in the courthouse at all times.*

**Rule 3.3. Team Presentation**

Teams must present both the Prosecution/Plaintiff and Defense/Defendant sides of the problem, using six team members in each trial round. For each trial round, teams shall use three students as attorneys and three students as witnesses.

**Rule 3.4. Team Duties**

Team members are to evenly divide their duties. Each of the three attorneys will conduct one direct examination and one cross-examination; in addition, one will present the opening statement and another will present the closing argument. In other words, the eight attorney duties for each team will be divided as follows:

1. Opening Statement
2. Direct Examination of Witness #1
3. Direct Examination of Witness #2
4. Direct Examination of Witness #3
5. Cross Examination of Witness #1
6. Cross Examination of Witness #2
7. Cross Examination of Witness #3
8. Closing Argument (including Rebuttal) [See Rule 4.5]

Opening Statements must be given by both sides at the beginning of the trial.

The attorney who examines a particular witness on direct examination is the only person who may make the objections to the opposing attorney's questions of that witness' cross-examination, and the attorney who cross-examines a witness will be the only one permitted to make objections during the direct examination of that witness.

Each team must call three witnesses. Witnesses must be called only by their own team during their case-in-chief and examined by both sides. Witnesses may not be recalled by either side.

**Rule 3.5. Team Roster**

Copies of the Team Roster Form must be completed and duplicated by each team prior to arrival at the courtroom for each round of competition. Teams must be identified by the code assigned *to them by CCV*. No information identifying team origin should appear on the form. Before beginning a trial, the teams must exchange copies of the Team Roster Form. The Form should identify the gender of each witness so that references to such parties will be made in the proper gender. Copies of the Team Roster Form should also be made available to the judging panel and presiding judge

before each round. Teams shall not knowingly disclose their place of origin to any member of the judging panel or to the presiding judge.

## **D. THE TRIAL**

### **Rule 4.1 Courtroom Setting**

the Plaintiff/Prosecution shall be seated closest to the jury box. No team shall rearrange the courtroom without prior permission of the judge.

### **Rule 4.2. Stipulations**

Stipulations shall be considered part of the record and already admitted into evidence.

### **Rule 4.3 Reading Into the Record not Permitted**

Reading into the record the Stipulations, the Indictment, or the Charge to the Jury shall not be allowed.

### **Rule 4.4. Swearing of Witnesses**

*Witnesses shall be sworn, either individually or as a group using the following oath:*

"Do you promise that the testimony you are about to give will faithfully and truthfully conform to the facts and rules of the mock trial competition?"

### **Rule 4.5. Trial Sequence and Time Limits**

The trial sequence and time limits are as follows:

1. Opening Statement (5 minutes per side)
2. Direct and (optional) Redirect Examination (25 minutes per side);
3. Cross and (optional) Recross Examination (20 minutes per side);
4. Closing Arguments (5 minutes per side).

The Prosecution/Plaintiff gives the opening statement first. The Prosecution/Plaintiff gives the closing argument first; the Prosecution/Plaintiff may reserve a portion of its closing time for a rebuttal. The Prosecution/Plaintiff's rebuttal is limited to the scope of the Defense's closing argument.

Attorneys are not required to use the entire time allotted to each part of the trial. Time remaining in one part of the trial may not be transferred to another part of the trial.

### **Rule 4.6. Timekeeping**

(a) Time limits are mandatory and will be enforced. Each team is required to provide one student who will serve as the official timekeeper for that team. **This timekeeper must meet the requirements of Rule 1.4.** Time for objections, extensive questioning from the judge, or administering the oath will not be counted as part of the allotted time during examination of witnesses and opening and closing statements. Time does not stop for introduction of exhibits.

(b) At the end of each task during the trial presentation (i.e. at the end of each opening, at the end each witness examination, at the end of each cross examination and at the end of each closing argument) if there is more than a 15 second discrepancy between the teams' timekeepers, the timekeepers must notify the presiding judge of the discrepancy. The presiding judge will then rule on the discrepancy, the timekeepers will synchronize their stopwatches accordingly and the trial will continue. No time disputes will be entertained after the trial concludes. The decisions of the presiding judge regarding the resolution of time disputes are final. Time limits are mandatory and will be enforced.

**Rule 4.7. Time Extensions and Scoring**

The presiding judge has sole discretion to grant time extensions. If time has expired and an attorney continues without permission from the Court, the scoring judges may determine individually whether or not to discount points in a category because of the overrun in time.

**Rule 4.8. Motions Prohibited**

No motions may be made.

**Rule 4.9. Sequestration**

Teams may not invoke the rule of sequestration (*exclusion of witnesses from courtroom*).

**Rule 4.10. Bench Conferences**

Bench conferences may be granted at the discretion of the presiding judge, but should be made from the counsel table in the educational interest of handling all matters in open court.

**Rule 4.11. Supplemental Material/Costuming**

Teams may refer only to materials included in the trial packet. No illustrative aids of any kind may be used, unless provided in the case packet. No enlargements of the case materials will be permitted. Absolutely no props or costumes are permitted unless authorized specifically in the case materials. Costuming is defined as hairstyles, clothing, accessories, and make-up which are case-specific.

The only documents that the teams may present to the presiding judge or scoring panel are the individual exhibits as they are introduced into evidence and the Team Roster Forms. Exhibit notebooks are not to be provided to the presiding judge or scoring panel.

**Rule 4.12. Trial Communication**

Teacher advisors, attorney coaches, alternates and observers shall not talk to, signal, communicate with, or coach their teams during trial. This rule remains in force during any recess that may occur. Team members may among themselves communicate during the trial; however, no disruptive communication is allowed.

Signaling of time by the teams' timekeepers shall not be considered a violation of this rule.

*Non-participating team members*, teacher advisors, attorney coaches, and observers must remain outside the bar in the spectator section of the courtroom. Only team members participating in the round may sit inside the bar and communicate with each other.

**Rule 4.13. Viewing a Trial**

Team members, attorney coaches, teacher advisors, and any other persons directly associated with a mock trial team, except for those authorized by CCV, are not allowed to view other teams in competition, *except during the last round of state finals competition*. No person shall display anything that identifies their place of origin while in the courtroom.

**Rule 4.14. Videotaping/Photography**

Any team has the option to refuse participation in videotaping, tape recording, still photography by opposing teams.

Media coverage will be allowed.

Media representatives authorized by CCV will wear identification badges.

**Rule 4.15. Jury Trial**

The case will be tried to a jury; arguments are to be made to *the presiding* judge and jury. Teams may address the scoring judges as the jury.

**Rule 4.16. Standing During Trial**

Unless excused by the judge, attorneys will stand while giving opening *statements and closing arguments*, *while conducting* direct and cross examinations and *while making or responding* to objections.

**Rule 4.17. Objections During Opening Statement/Closing Argument**

No objections may be raised during opening statements or closing arguments.

If a team believes an objection would have been proper during the opposing team's opening statement or closing argument, one of its attorneys may, following the opening statement or closing argument, stand to be recognized by the judge and may say, "If I had been permitted to object, I would have objected to the opposing team's statement that \_\_\_\_\_." The presiding judge shall not rule on this "objection."

Judges shall weigh the "objection" individually. No rebuttal by opposing team will be heard.

**Rule 4.18. Objections**

**1. Argumentative Questions**

An attorney shall not ask argumentative questions. However, the Court may, in its discretion, allow limited use of argumentative questions on cross-examination.

**2. Lack of Proper Predicate/Foundation**

Attorneys shall lay a proper foundation prior to moving the admission of evidence. After motion has been made, the exhibits may still be objected to on other grounds.

### **3. Assuming Facts Not in Evidence**

Attorneys may not ask a question that assumes unproved facts. However, an expert witness may be asked a question based upon stated assumptions, the truth of which is reasonably supported by evidence (sometimes called a "hypothetical question").

### **4. Questions Calling for Narrative or General Answer**

Questions must be stated so as to call for a specific answer. (Example of improper question: "Tell us what you know about this case.")

### **5. Non-Responsive Answer**

A witness' answer is objectionable if it fails to respond to the question asked.

### **6. Repetition**

Questions designed to elicit the same testimony or evidence previously presented in its entirety are improper if merely offered as a repetition of the same testimony or evidence from the same or similar source.

Teams are not precluded from raising additional objections which are available under the National High School Mock Trial Rules of Evidence.

#### **Rule 4.19. Reserved**

#### **Rule 4.20. Procedure for Introduction of Exhibits**

As an example, the following steps effectively introduce evidence.

1. All evidence shall be pre-marked as exhibits.
2. Show the exhibit to opposing counsel.
3. Ask for permission to approach the witness. Give the exhibit to the witness.
4. "I now hand you what has been marked as Exhibit No. \_\_\_ for identification."
5. Ask the witness to identify the exhibit. "Would you identify it please?"
6. Witness answers with identification only.
7. Offer the exhibit into evidence. "Your Honor, we offer Exhibit No. \_\_\_ into evidence at this time. The authenticity of this exhibit has been stipulated."
8. *Presiding Judge*: "Is there an objection?" (If opposing counsel believes a proper foundation has not been laid, the attorney should be prepared to object at this time.)
9. Opposing Counsel: "No, your Honor," or "Yes, your Honor." If the response is "yes," the objection shall be stated on the record. *Presiding Judge*: "Is there any response to the objection?"
10. *Presiding Judge*: "Exhibit No. \_\_\_ is/is not admitted."

#### **Rule 4.21. Use of Notes**

Attorneys may use notes in presenting their cases. Witnesses are not permitted to use notes while testifying during the trial. Attorneys may consult with each other at counsel table verbally or through the use of notes.

**Rule 4.22. Redirect/Recross**

Redirect and recross examinations are permitted, provided they conform to the restrictions in Rule 611(d) in the National High School Mock Trial Rules of Evidence.

**Rule 4.23. Scope of Closing Arguments**

Closing arguments must be based on the actual evidence and testimony presented during the trial.

**Rule 4.24. The Critique**

The judging panel is allowed 10 minutes for debriefing. Presiding judges *shall* limit the debriefing sessions to a total of 10 minutes, *to be shared among all members of the judging panel.*

*Presiding* judges shall not make a ruling on the legal merits of the trial. Judges *shall* not inform the students of score sheet results.

**Rule 4.25. Offers of Proof**

No offers of proof may be requested or tendered.

**E. JUDGING AND TEAM ADVANCEMENT**

**Rule 5.1. Finality of Decisions**

All decisions of the judging panel are FINAL.

**Rule 5.2. Composition of Judging Panels**

The judging panel shall consist of at least three individuals. The composition of the judging panel and the role of the presiding judge will be at the sole discretion of CCV , as follows:

1. One presiding judge and two scoring judges (all three judges complete score sheets).
2. One presiding judge and three *or more* scoring judges (only scoring judges complete score sheets).

*The championship round of state finals, if any, may have a larger panel at the discretion of CCV.*

*If panels consisting of an even number of scoring judges are used, the presiding judge shall complete a tiebreaker ballot for use if and only if the ballots of the scoring judges are equally divided. The tiebreaker ballot shall not be included in a team's total ballots or be used for any other purpose.*

*If a judging panel is missing a judge, the mock trial coordinator shall average the total team scores reflected on the score sheet of each of the judges present to derive total team scores for an averaged score sheet, which shall be used for all purposes in place of the missing score sheet and ballot.*

*In case of a shortage of judges, panels of two judges may be used (in which case, the team receiving the higher total number of points shall win the round, and the mock trial coordinator shall average the scores of the two judges present to compute the third score required for power matching).*

All presiding and scoring judges will receive the mock trial packet, orientation materials and a briefing in a judges' orientation.

**Rule 5.3. Score Sheets/Ballots**

The term "ballot" will refer to the decision made by a scoring judge as to which team made the better presentation in the round. The term "score sheet" is used in reference to the form on which *presentation* points are recorded. Score sheets are to be completed individually by the scoring judges. Scoring judges are not bound by the rulings of the presiding judge. The team that earns the highest points on an individual judge's score sheet is the winner of that ballot. The team that receives the majority of the ballots wins the round. The ballot votes determine the win/loss record of the team for power-matching and ranking purposes. While the judging panel may deliberate about any special awards (i.e., Outstanding Attorney or Witness), the judging panel should not deliberate about individual scores.

*Judging panels may recognize outstanding individual presentation by selecting one outstanding witness and/or one outstanding attorney per round. The decision must be representative of the majority of the panel members and recorded on the forms provided separately in this packet. The judges may NOT disclose these decisions to anyone other than a mock trial coordinator.*

**Rule 5.4. Completion of Score Sheets**

Each scoring judge shall record a number of points (1-10) for each presentation of the trial. At the end of the trial, each judge shall total the sum of each team's individual points, place this sum in the Column Totals box, and enter the team ("P" for prosecution/plaintiff or "D" for defense/defendant) with the higher total number of points in the Tiebreaker Box. NO TIE IS ALLOWED IN THE COLUMN TOTALS BOXES.

In the event of a mathematical error in tabulation by the judges which, when corrected, results in a tie in the Column Totals boxes, the Tiebreaker Box shall determine award of the ballot.

**Rule 5.5. Team Advancement/Ranking**

*a. For the purpose of power matching/seeding, teams shall be ranked based on the following criteria in the order listed:*

1. win/loss record - equals the number of rounds won or lost by a team;
2. total number of ballots - equals the number of scoring judges' votes a team earned in preceding rounds;
3. total number of points awarded in preceding rounds; and,
4. point spread against opponents - the point spread is the difference between the total points earned by the team whose tie is being broken less the total points of that team's opponent in each previous round. The greatest sum of these point spreads will break the tie in favor of the team with the largest cumulative point spread.

*b. For the purpose of determining final rankings at the conclusion of regionals and state finals, teams shall be ranked based on the following criteria in the order listed, provided that if by application of the criteria a team is ranked higher than a team with the same win/loss record that defeated it, the losing team shall be placed immediately below the winning team:*

1. win/loss record;

2. *number of wins against 3-1 teams;*
3. *number of wins against 2-2 teams*
4. *number of wins against 1-3 teams;*
5. *total number of ballots won;*
6. *total number of points awarded; and,*
7. *point spread against opponents (total points awarded minus total points awarded to opponents).*

**Rule 5.6. Power Matching/Seeding**

*Teams shall be randomly matched for the first round of regional competition and seeded for the first round of state finals. That is, after regional competition the team in first place shall be matched with the team in last place; the team in second place shall be matched with the team in second to last place, and so on until all advancing teams have been paired with opponents for round 1 of state finals. A power match system shall determine opponents for all other rounds as follows.*

1. *Brackets shall be determined by win/loss record. Sorting within brackets shall be determined in accordance with Rule 5.5. The team ranked highest in each bracket shall be matched with the team ranked lowest in each bracket; the next highest with the next lowest, and so on until all teams are paired. If there are an odd number of teams in a bracket, the team at the bottom of that bracket shall be matched with the top team from the next lower bracket.*
2. *Pairings may be modified to provide teams the opportunity to present each side of the case at least once, or to avoid teams meeting the same opponent twice.*

**Rule 5.7. Selection of Sides for Championship Round, if any, at State Finals**

In determining which team will represent which side in the Championship Round, if any, the following procedure will be used:

1. The team with the letter code that comes first alphabetically will be considered the "Designated Team."
2. A coin will be tossed by a designee of CCV.
3. If the coin comes up heads, the Designated Team shall represent the plaintiff/prosecution in the final Round. If the coin comes up tails, the Designated Team shall represent the defense/defendant.

**Rule 5.8 Effect of Bye/Default**

A "bye" is necessary when an odd number of teams is present for the tournament. For the purpose of advancement and seeding, when a team draws a bye or wins by default, it shall be given a win and the number of ballots and points equal to the average of all winning teams' ballots and points of that same round. *A defaulting team shall receive a loss and the number of ballots and points equal to the average of all losing teams' ballots and points of that same round. All fractions resulting from averaging shall be rounded down to the nearest whole number.*

## **F. DISPUTE RESOLUTION**

### **Rule 6.1. Reporting a Rules Violation/Inside the Bar**

*If during the trial any team has reason to believe that a material violation of the Rules of the Competition has occurred, the alleged violation shall be presented immediately to the presiding judge through one of the team attorneys by objection. The presiding judge shall rule on the matter, and the trial shall continue. Any alleged violation which is known, or through the exercise of reasonable diligence should have been discovered during the trial and which is not brought to the attention of the presiding judge, is promptly waived.*

*If a team has reason to believe that the presiding judge has ruled incorrectly on a material violation of the Rules of the Competition, or if the violation could not reasonably have been discovered until after the trial has concluded, a member of the team shall communicate the complaint to a mock trial coordinator immediately after the trial is over and after the judges have recessed.*

### **Rule 6.2. Dispute Resolution Procedure**

*The mock trial coordinator shall notify the other team of the complaint and each team shall then designate one team member to present its case to the coordinator. Each team member shall have three minutes for the presentation to the coordinator.*

*If the mock trial coordinator 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 shall be:*

- 1. informed of the dispute by the coordinator;*
- 2. given a summary of each team's argument by the coordinator; and,*
- 3. allowed to consider the dispute before completing their ballots.*

### **Rule 6.3. Effect of Violation on Score**

*The dispute may or may not affect the judges' scoring decisions, but the matter shall be left to the discretion of the judges. Their decision shall be FINAL.*

### **Rule 6.4 Reporting of Rules Violation/Outside the Bar**

*(this rule is not applicable in the New Mexico competition.)*

Disputes which occur outside the bar only during a trial round may be brought by teacher or attorney-coaches exclusively. Such disputes must be made promptly to a trial coordinator or a member of the National Board, who will ask the complaining party to complete a dispute form. The form will be taken to the tournament's communication's center, whereupon a dispute resolution panel will (a) notify all pertinent parties; (b) allow time for a response, if appropriate; (c) conduct a hearing; and (d) rule on the charge. The dispute resolution panel may notify the judging panel of the affected courtroom of the ruling on the charge or may assess an appropriate penalty.

The dispute resolution panel will be designated by the National Board.

## II. NATIONAL HIGH SCHOOL MOCK TRIAL RULES OF EVIDENCE

In American trials complex rules are used to govern the admission of proof (i.e., oral or physical evidence). These rules are designed to ensure that all parties receive a fair hearing and to exclude evidence deemed irrelevant, incompetent, untrustworthy, unduly prejudicial, or otherwise improper. If it appears that a rule of evidence is being violated, an attorney may raise an objection to the judge. The judge then decides whether the rule has been violated and whether the evidence must be excluded from the record of the trial. In the absence of a properly made objection, however, the evidence will probably be allowed by the judge. The burden is on the mock trial team to know the *New Mexico* High School Rules of Evidence and to be able to use them to protect its client and fairly limit the actions of opposing counsel and their witnesses.

For purposes of mock trial competition, the Rules of Evidence have been modified and simplified. They are based on the Federal Rules of Evidence and its numbering system. Where rule numbers or letters are skipped, those rules were not deemed applicable to mock trial procedure. Text in italics represents simplified or modified language.

Not all judges will interpret the Rules of Evidence the same way, and mock trial attorneys should be prepared to point out specific rules (quoting, if necessary) and to argue persuasively for the interpretation and application of the rules they think appropriate.

The Mock Trial Rules of Competition and the National High School Mock Trial Rules of Evidence govern the *New Mexico* High School Mock Trial Championship.

### ARTICLE I. GENERAL PROVISIONS

#### Rule 101. Scope

These National High School Mock Trial Rules of Evidence govern the trial proceedings of the *New Mexico High School Mock Trial Competition*.

#### Rule 102. Purpose and Construction

These Rules are intended to secure fairness in administration of the trials, eliminate unjust delay, and promote the laws of evidence so that the truth may be ascertained.

### ARTICLE II. JUDICIAL NOTICE

(Not Applicable)

### ARTICLE III. PRESUMPTIONS IN CIVIL ACTIONS AND PROCEEDINGS

(Not Applicable)

## ARTICLE IV. RELEVANCY AND ITS LIMITS

### Rule 401. Definition of "Relevant Evidence"

"Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

### Rule 402. Relevant Evidence Generally Admissible; Irrelevant Evidence Inadmissible

Relevant evidence is admissible, except as otherwise provided in these Rules. *Irrelevant evidence is not admissible.*

### Rule 403. Exclusion of Relevant Evidence on Grounds of Prejudice, Confusion, or Waste of Time

Although relevant, evidence may be excluded if its probative value is outweighed by the danger of unfair prejudice, if it confuses the issues, if it is misleading, or if it causes undue delay, wastes time, or is a needless presentation of cumulative evidence.

### Rule 404. Character Evidence Not Admissible to Prove Conduct; Exceptions; Other Crimes

- (a) **Character Evidence.** Evidence of a person's character or character trait, is not admissible to prove action regarding a particular occasion, except:
- (1) **Character of accused.** Evidence of a pertinent character trait offered by an accused, or by the prosecution to rebut same;
  - (2) **Character of victim.** Evidence of a pertinent character trait of the victim of the crime offered by an accused, or by the prosecution to rebut same, or evidence of a character trait of peacefulness of the victim offered by the prosecution in a homicide case to rebut evidence that the victim was the aggressor;
  - (3) **Character of witness.** Evidence of the character of a witness as provided in Rules 607, 608 and 609.
- (b) **Other crimes, wrongs, or acts.** Evidence of other crimes, wrongs, or acts is not admissible to prove character of a person in order to show an action conforms to character. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

### Rule 405. Methods of Proving Character

- (a) **Reputation or opinion.** In all cases where evidence of character or a *character trait* is admissible, proof may be made by testimony as to reputation or in the form of an opinion. On cross-examination, *questions may be asked regarding relevant, specific conduct.*
- (b) **Specific instances of conduct.** In cases where character or a *character trait* is an essential element of a charge, claim, or defense, proof may also be made of specific instances of that person's conduct.

**Rule 406. Habit; Routine Practice**

Evidence of the habit of a person or the routine practice of an organization, whether corroborated or not and regardless of the presence of eyewitnesses, is relevant to prove that the conduct of the person or organization, on a particular occasion, was in conformity with the habit or routine practice.

**Rule 407. Subsequent Remedial Measures**

When measures are taken after an event which, if taken before, would have made the event less likely to occur, evidence of the subsequent measures is not admissible to prove negligence or culpable conduct in connection with the event. This rule does not require the exclusion of evidence of subsequent measures when offered for another purpose; such as proving ownership, control, or feasibility of precautionary measures, if controverted, or impeachment.

**Rule 408. Compromise and Offers to Compromise**

Evidence of (1) furnishing or offering or promising to furnish, or (2) accepting or offering or promising to accept, a valuable consideration in compromising or attempting to compromise a claim which was disputed as to either validity or amount, is not admissible to prove liability for or invalidity of the claim or its amount. Evidence of conduct or statements made in compromise negotiations is likewise not admissible. This rule does not require the exclusion of any evidence otherwise discoverable merely because it is presented in the course of compromise negotiations. This rule also does not require exclusion when the evidence is offered for another purpose, such as proving bias or prejudice of a witness, negating a contention of undue delay, or proving an effort to obstruct investigation or prosecution.

**Rule 409. Payment of Medical or Similar Expenses**

Evidence of furnishing or offering or promising to pay medical, hospital, or similar expenses occasioned by an injury is not admissible to prove liability for the injury.

**Rule 410. Inadmissibility of Pleas, Plea Discussions, and Related Statements**

Except as otherwise provided in this Rule, evidence of the following is not, in any civil or criminal proceeding, admissible against a defendant who made the plea or was a participant in the plea discussions:

- (1) a plea of guilty which was later withdrawn;
- (2) a plea of *nolo contendere*;
- (3) any statement made in the course of any proceeding under Rule 11 of the Federal Rules of Criminal Procedure or comparable state procedure regarding either of the forgoing pleas; or
- (4) any statement made in the course of plea discussions made in the course of plea discussions with an attorney for the prosecuting authority which do not result in a plea of guilty or which result in a plea of guilty which is later withdrawn.

However, such a statement is admissible (i) in any proceeding wherein another statement made in the course of the same plea or plea discussions has been introduced and the

statement ought, in fairness, be considered with it, or (ii) in a criminal proceeding for perjury or false statement if the statement was made by the defendant under oath, on the record and in the presence of counsel.

**Rule 411. Liability Insurance**

(civil case only)

Evidence that a person was or was not insured against liability is not admissible upon the issue whether the person acted negligently or otherwise wrongfully. This rule does not require the exclusion of evidence of insurance against liability when offered for another purpose, such as proof of agency, ownership, or control, or bias or prejudice of a witness.

**ARTICLE V. PRIVILEGES**

**Rule 501. General Rule**

There are certain admissions and communications excluded from evidence on grounds of public policy. Among these are:

- (1) communications between husband and wife;
- (2) communications between attorney and client;
- (3) communications among grand jurors;
- (4) secrets of state; and
- (5) communications between psychiatrist and patient.

**ARTICLE VI. WITNESSES**

**Rule 601. General Rule of Competency**

Every person is competent to be a witness. . . .

**Rule 602. Lack of Personal Knowledge**

A witness may not testify to a matter unless the witness has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the witness' own testimony. This rule is subject to the provisions of Rule 703, related to opinion testimony by expert witnesses.

**Rule 607. Who May Impeach**

The credibility of a witness may be attacked by any party, including the party calling the witness.

**Rule 608. Evidence of Character and Conduct of Witness**

- (a) Opinion and reputation evidence of character. The credibility of a witness may be attacked or supported by evidence in the form of opinion or reputation, but subject to these limitations:
  - (1) the evidence may refer only to character for truthfulness or untruthfulness, and
  - (2) evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation evidence, or otherwise.

- (b) **Specific instances of conduct.** Specific instances of the conduct of a witness, for the purpose of attacking or supporting the witness' credibility, other than conviction of crime as provided in Rule 609, may not be proved by extrinsic evidence. They may, however, in the discretion of the Court, if probative of truthfulness or untruthfulness, be asked on cross-examination of the witness (1) concerning the witness' character for truthfulness or untruthfulness, or (2) concerning the character for truthfulness or untruthfulness of another witness as to which character the witness being cross-examined has testified.

Testimony, whether by an accused or by any other witness, does not operate as a waiver of the accused's or the witness' privilege against self-incrimination with respect to matters related only to credibility.

#### **Rule 609. Impeachment by Evidence of Conviction of Crime**

(this rule applies only to witnesses with prior convictions)

- (a) **General Rule.** For the purpose of attacking the credibility of a witness, evidence that a witness other than the accused has been convicted of a crime shall be admitted if elicited from the witness or established by public record during cross-examination, but only if the crime was punishable by death or imprisonment in excess of one year, and the Court determines that the probative value of admitting this evidence outweighs its prejudicial effect to the accused. Evidence that any witness has been convicted of a crime shall be admitted if it involved dishonesty or false statement, regardless of the punishment.
- (b) **Time Limit.** Evidence of a conviction under this Rule is not admissible if a period of more than 10 years has elapsed since the date of the conviction or of the release of the witness from the confinement imposed for that conviction, whichever is the later date, unless the Court determines that the value of the conviction substantially outweighs its prejudicial effect. However, evidence of a conviction more than 10 years old as calculated herein, is not admissible unless the proponent gives to the adverse party sufficient advance written notice of intent to use such evidence to provide the adverse party with a fair opportunity to contest the use of such evidence.
- (c) **Effect of pardon, annulment, or certificate of rehabilitation.** Evidence of a conviction is not admissible if (1) the conviction has been the subject of a pardon or other equivalent procedure based on a finding of the rehabilitation of the person convicted of a subsequent crime which was punishable by death or imprisonment in excess of one year, or (2) the conviction has been the subject of a pardon, other equivalent procedure based on a finding of innocence.
- (d) **Juvenile adjudications.** Evidence of juvenile adjudications is generally not admissible under this rule. The court may, however, in a criminal case allow evidence of a juvenile adjudication of a witness other than the accused if conviction of the offense would be admissible to attack the credibility of an adult and the court is satisfied that admission in evidence is necessary for a fair determination of the issue of guilt or innocence.
- (e) *Not applicable.*

**Rule 610. Religious Beliefs or Opinions**

Evidence of the beliefs or opinions of a witness on matters of religion is not admissible for the purpose of showing that by reason of their nature the witness' credibility is impaired or enhanced.

**Rule 611. Mode and Order of Interrogation and Presentation**

- (a) Control by Court. The Court shall exercise reasonable control over questioning of witnesses and presenting evidence so as to:
  - (1) make the questioning and presentation effective for ascertaining the truth,
  - (2) to avoid needless use of time, and
  - (3) protect witnesses from harassment or undue embarrassment.
- (b) Scope of cross-examination. The scope of cross-examination shall not be limited to the scope of the direct examination, but may inquire into any relevant facts or matters contained in the witness' statement, including all reasonable inferences that can be drawn from those facts and matters, and may inquire into any omissions from the witness statement that are otherwise material and admissible.
- (c) Leading questions. Leading questions should not be used on direct examination of a witness (except as may be necessary to develop the witness' testimony). Ordinarily, leading questions are permitted on cross-examination. When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party, leading questions may be used.
- (d) Redirect/Recross. After cross-examination, additional questions may be asked by the direct examining attorney, but questions must be limited to matters raised by the attorney on cross-examination. Likewise, additional questions may be asked by the cross-examining attorney on recross, but such questions must be limited to matters raised on redirect examination and should avoid repetition.

**Rule 612. Writing Used to Refresh Memory**

*If a written statement is used to refresh the memory of a witness either while or before testifying, the Court shall determine that the adverse party is entitled to have the writing produced for inspection. The adverse party may cross-examine the witness on the material and introduce into evidence those portions which relate to the testimony of the witness.*

**Rule 613. Prior Statements of Witnesses**

**Examining witness concerning prior statement.** In examining a witness concerning a prior statement made by the witness, whether written or not, the statement need not be shown nor its contents disclosed to the witness at that time, but on request the same shall be shown or disclosed to opposing counsel.

**Extrinsic evidence of prior inconsistent statement of witness.** Extrinsic evidence of a prior inconsistent statement by a witness is not admissible unless the witness is afforded an opportunity to explain or deny the same and the opposite party is afforded an opportunity to interrogate.

## **ARTICLE VII. OPINIONS AND EXPERT TESTIMONY**

### **Rule 701. Opinion Testimony by Lay Witness**

If the witness is not testifying as an expert, the witness' testimony in the form of opinions or inferences is limited to those opinions or inferences which are (a) rationally based on the perception of the witness and (b) helpful to a clear understanding of the witness' testimony or the determination of a fact in issue.

### **Rule 702. Testimony by Experts**

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify in the form of an opinion or otherwise.

### **Rule 703. Bases of Opinion Testimony by Experts**

The facts or data upon which an expert bases an opinion may be those perceived by or made known to the expert at or before the hearing. If of a type reasonably relied upon by experts in the field in forming opinions or inferences, the facts or data need not be admissible in evidence.

### **Rule 704. Opinion on Ultimate Issue**

- (a) Opinion or inference testimony otherwise admissible is not objectionable because it embraces an issue to be decided by the trier of fact.
- (b) In a criminal case, an expert witness shall not express an opinion as to the guilt or innocence of the accused.

### **Rule 705. Disclosure of Facts or Data Underlying Expert Opinion**

The expert may testify in terms of opinion or inference and give reasons therefor without prior disclosure of the underlying facts or data, unless the Court requires otherwise. The expert may in any event be required to disclose the underlying facts or data on cross-examination.

## **ARTICLE VIII. HEARSAY**

### **Rule 801. Definitions**

The following definitions apply under this article:

- (a) **Statement.** A "statement" is an oral or written assertion or nonverbal conduct of a person, if it is intended by the person as an assertion.
- (b) **Declarant.** A "declarant" is a person who makes a statement.
- (c) **Hearsay.** "Hearsay" is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.
- (d) **Statements which are not hearsay.** A statement is not hearsay if:

- (1) **Prior statement by witness.** The declarant testifies at the trial or hearing and is subject to cross-examination concerning the statement and the statement is (A) inconsistent with the declarant's testimony, and was given under oath subject to the penalty of perjury at a trial, hearing, or other proceeding, or in a deposition, or (B) consistent with the declarant's testimony and is offered to rebut an express or implied charge against the declarant of recent fabrication or improper influence or motive, or (C) one of identification of a person made after perceiving the person; or
- (2) **Admission by a party-opponent.** The statement is offered against a party and is (A) the party's own statement in either an individual or a representative capacity or (B) a statement of which the party has manifested an adoption or belief in its truth, or (C) a statement by a person authorized by the party to make a statement concerning the subject, or (D) a statement by the party's agent or servant concerning a matter within the scope of the agency or employment, made during the existence of the relationship, or (E) a statement by a co-conspirator of a party during the course in furtherance of the conspiracy.

**Rule 802. Hearsay Rule**

Hearsay is not admissible, except as provided by these rules.

**Rule 803. Hearsay Exceptions, Availability of Declarant Immaterial**

The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

- (1) **Present sense impression.** A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter.
- (2) **Excited utterance.** A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.
- (3) **Then existing mental, emotional, or physical conditions.** A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant's will.
- (4) **Statements for purposes of medical diagnosis or treatment.** Statements made for the purpose of medical diagnosis or treatment.
- (5) **Recorded recollection.** A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable the witness to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in the witness' memory and to reflect that knowledge correctly.

- (6) **Records of regularly conducted activity.** Any memorandum, record, report, or other compilation of data in any form which was made:
  - (a) in the ordinary course of business or conduct of a business, organization, or enterprise;
  - (b) at or near the time the matters recorded occurred; and,
  - (c) by someone with personal knowledge of the matters recorded or from information submitted by someone with such knowledge.
- (18) **Learned treatises.** To the extent called to the attention of an expert witness upon cross-examination or relied upon by the expert witness in direct examination, statements contained in published treatises, periodicals, or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice.
- (21) **Reputation as to character.** Reputation of a person's character among associates or in the community.
- (22) **Judgment of previous conviction.** Evidence of a judgment *finding* a person guilty of a crime punishable by death or imprisonment in excess of one year, to prove any fact essential to sustain the judgment, but not including, when offered by the Government in a criminal prosecution for purposes other than impeachment, judgments against persons other than the accused.

**Rule 804. Hearsay Exceptions, Declarant Unavailable**

- (a) Definition of unavailability. "Unavailability as a witness" includes situations in which the declarant -
  - (1) is exempted by ruling of the court on the ground of privilege from testifying concerning the subject matter of the declarant's statement; or
  - (2) persists in refusing to testify concerning the subject matter of the declarant's statement despite an order of the court to do so; or
  - (3) testifies to a lack of memory of the subject matter of the declarant's statement; or
  - (4) is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity; or
  - (5) is absent from the hearing and the proponent of a statement has been unable to procure the declarant's attendance (or in the case of a hearsay exception under subdivision (b)(2), (3), or (4), the declarant's attendance or testimony) by process or other reasonable means.

A declarant is not unavailable as a witness if exemption, refusal, claim of lack of memory, inability, or absence is due to the procurement or wrongdoing of the proponent of a statement for the purpose of preventing the witness from attending or testifying.

- (b) Hearsay exceptions. The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:
- (1) Former testimony. Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered or, in a civil action or proceeding, a predecessor in interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.
  - (2) Statement under belief of impending death. In a prosecution for homicide or in a civil action or proceeding, a statement made by a declarant while believing that the declarant's death was imminent, concerning the cause or circumstances of what the declarant believed to be impending death.
  - (3) Statement against interest. A statement which was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or so far tended to subject the declarant to civil or criminal liability, or to render invalid a claim by the declarant against another, that a reasonable person in the declarant's position would not have made the statement unless believing it to be true. A statement tending to expose the declarant to criminal liability and offered to exculpate the accused is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.
  - (4) Statement of personal or family history. (A) A statement concerning the declarant's own birth, adoption, marriage, divorce, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of personal or family history, even though declarant had no means of acquiring personal knowledge of the matter stated; (B) a statement concerning the foregoing matters, and death also, of another person, if the declarant was related to the other by blood, adoption, or marriage or was so intimately associated with the other's family as to be likely to have accurate information concerning the matter declared.
  - (6) Forfeiture by wrongdoing. A statement offered against a party that has engaged or acquiesced in wrongdoing that was intended to, and did, procure the unavailability of the declarant as a witness.

**Rule 805. Hearsay within Hearsay**

Hearsay included within hearsay is not excluded under the hearsay rule if each part of the combined statement conforms with an exception to the hearsay rule provided in these rules.

**ARTICLE IX.**

(Not applicable.)

**ARTICLE X.**

(Not applicable.)

## **ARTICLE XI. MISCELLANEOUS RULES**

### **Rule 1103. Title**

These rules may be known and cited as the National High School Mock Trial Rules of Evidence.

# CHECKLIST FOR PRESIDING AND SCORING JUDGES

<b>PRESIDING JUDGES-Before the Trial</b>
1. In the jury room, distribute practice ballots to scoring judges-unless there are only two scoring judges on your panel, you DO NOT have a practice ballot. Leave the official ballot envelope in the jury room.
2. Select a member of the panel to be the bailiff
<b>PRESIDING JUDGES-During the Trial</b>
3. In the courtroom, be seated on the bench; introduce yourself and the "jury" (the other members of the panel).
4. Deal with pre-trial matters:
a. Request that all cell phones and pagers be placed in the off position
b. If video cameras or other recording/photographic devices are present, confirm that neither team objects
c. Remind all present that no communication is allowed between participating team members and others in the courtroom until the trial is concluded
d. Confirm that both teams have a timekeeper
e. Confirm that <i>Team Rosters</i> have been exchanged by the teams and provided to each member of the judging panel
f. Ask each team to identify its participating members by name and role (DO NOT ask a school to identify itself by anything other than its code).
g. Ask if there is anyone in the courtroom who is not affiliated with either team or there in an approved capacity (badged volunteer or observer); if there is, excuse that person from the room.
h. Ask each team if it is ready for trial.
5. Swear in the witnesses, either as a group at the beginning of trial or prior to the testimony of each, using the following oath:  <i>"Do you promise that the testimony you are about to give will faithfully and truthfully conform to the facts and rules of the mock trial competition?" Rule 11, Rules of the Competition.</i>
6. Conduct the trial, making rulings on objections raised based upon the New Mexico High School Mock Trial Rules
<b>PRESIDING JUDGES-After the Trial</b>
1. Announce a 15-minute recess.
2. Retire to the jury room with the other members of the panel.
3. Distribute official ballots to the other members of the panel. Review the <i>Explanation of Presentation Ratings</i> that appears in the Mock Trial Rules. If necessary (you will have been advised about this at Judges' Orientation), complete your presiding judge ballot, remembering to fill in the date, the round number, the team codes and either a "P" or a "D" to identify the team you believe gave the better presentation.
4. Confer about an Outstanding Attorney and/or Witness: If the majority of the judging panel concurs, complete the form(s); have the form(s) signed by at least two (three-judge panel) or three (four-judge panel) members and place the forms in official ballot envelope.
5. Collect the practice ballots and place them in the practice ballot envelope - <i>please</i> do not seal or write on the envelope.
6. Collect the official ballots and place them in the official ballot envelope - <i>please</i> do not seal or write on the envelope.
7. Before returning to the courtroom, give both ballot envelopes to a mock trial coordinator. If a coordinator is not present, take both ballot envelopes with you onto the bench for pick up by a coordinator.

8. Ask each member of your panel to tell you ONE POINT that s/he would like you to share with the teams during the debriefing. Upon returning to the courtroom, share the points with the teams, limiting the entire process to not more than 5-8 minutes. <b>DO NOT</b> announce results, scores, or the identities of the Outstanding Attorney and/or Witness.
9. Remind the students and observers to clean up their areas before leaving the courtroom.
10. Remind the teams to leave their thank you cards on the bench.
<b>SCORING JUDGES-Before the Trial</b>
1. Proceed with your panel to the jury room of your assigned courtroom.
2. Accept your practice ballot from your presiding judge.
<b>SCORING JUDGES-During the Trial</b>
1. <i>If you are serving as the bailiff</i> , enter the courtroom before the rest of your panel and announce, "All rise. The 15 <sup>th</sup> Judicial District Court for the County of Cory is now in session. The Honorable _____ presiding." If you are not serving as the bailiff, wait for the announcement to be made and then take your place in the jury box.
2. Use your practice ballot to assign provisional scores for each presentation.
<b>SCORING JUDGES-After the Trial</b>
1. When the presiding judge announces the recess, retire to the jury room with your judging panel.
2. Finalize your practice ballot, if necessary. Review the attached <i>Explanation of Presentation Ratings</i> . Complete your official ballot, remembering to fill in the date, round number, team codes, scores, tiebreaker box and signature line. When you are finished, give your ballot to the presiding judge.
3. Confer with your panel about an Outstanding Attorney and/or Witness award(s).
4. Before returning to the courtroom, share ONE POINT you want the presiding judge to make to the teams during the Debriefing. <b>DO NOT</b> announce results, scores, or the identities of the Outstanding Attorney and/or Witness.

# EXPLANATION OF PRESENTATION RATINGS

Participants will be rated in the categories on the ballot on a scale of 1 - 10 (with 10 being the highest) according to their roles in the trial. The Scoring Judges are scoring STUDENT PRESENTATION in each category. The Scoring Judges are NOT scoring the legal merits of the case. Each category is to be evaluated separately, and fractional points *ARE NOT* to be awarded. One team *MUST* be awarded more total points than the other. The team with the higher number of points shall win the ballot (and shall be entered in the tiebreaker box on the ballot). The team winning the majority of the ballots shall win the round.

Judging panels also *may* recognize outstanding individual presentations by selecting one MOST EFFECTIVE ATTORNEY and/or one MOST EFFECTIVE WITNESS per round. The decision must be representative of the majority of the panel members. (See following pages for more information.)

Judges may NOT disclose the score sheet/ballot results or the identities of the Most Effective Attorney and/or Witness to anyone other than a mock trial coordinator. Sign your score sheet/ballot before turning it over to the presiding judge on your panel. **PLEASE do not announce scores or results to the teams during the Debriefing!**

POINTS	PRESENTATION	CRITERIA FOR EVALUATING STUDENT PRESENTATION
1 – 2	Poor	<ul style="list-style-type: none"> <li>●Exhibits lack of preparation/understanding of the case materials.</li> <li>●Communication unclear, disorganized and ineffective.</li> <li>●Unsure of self, does not think well on feet, depends heavily upon notes.</li> </ul>
3 - 4	Below Average	<ul style="list-style-type: none"> <li>●Exhibits minimal preparation/understanding of the case materials.</li> <li>●Communication minimally clear and organized, but lacking in fluency and persuasiveness.</li> <li>●Minimally self-assured, but lacks confidence under pressure.</li> </ul>
5 - 6	Average	<ul style="list-style-type: none"> <li>●Exhibits adequate preparation/understanding of the case materials.</li> <li>●Communication is clear and organized, but could be stronger in fluency and persuasiveness.</li> <li>●Generally self-assured, reads from notes very little.</li> </ul>
7 - 8	Above Average	<ul style="list-style-type: none"> <li>●Exhibits mastery of the case materials.</li> <li>●Communication is clear, organized, fluent and persuasive.</li> <li>●Thinks well on feet, poised under pressure, <b>and does not</b> read from notes.</li> </ul>
9 - 10	Excellent	<ul style="list-style-type: none"> <li>●Superior in qualities listed for 7-8 points' presentation.</li> </ul>



# SCORE SHEET/BALLOT

## New Mexico High School Mock Trial Competition SCORE SHEET/BALLOT



**P** = Prosecution/Plaintiff

**D** = Defense/Defendant

\_\_\_\_\_ Team Code

\_\_\_\_\_ Team Code

**Date** (Enter below)

**Level** (Check one)

**Round** (Circle one)

Regionals  Finals

1 2 3 4

Poor 1 - 2	Below Average 3 - 4	Average 5 - 6	Above Average 7 - 8	Excellent 9 - 10
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Using a scale of 1 to 10, rate each of the trial presentations. <i>No fractions allowed.</i>	<b>P</b>		<b>D</b>
<b>Opening Statement</b>	( )		( )
<b>Prosecution/Plaintiff First Witness</b>	( )	Direct Examination	( )
	( )	Witness Presentation	( )
<b>Prosecution/Plaintiff Second Witness</b>	( )	Direct Examination	( )
	( )	Witness Presentation	( )
<b>Prosecution/Plaintiff Third Witness</b>	( )	Direct Examination	( )
	( )	Witness Presentation	( )
<b>Defense/Defendant First Witness</b>	( )	Cross-Examination	( )
	( )	Witness Presentation	( )
<b>Defense/Defendant Second Witness</b>	( )	Cross-Examination	( )
	( )	Witness Presentation	( )
<b>Defense/Defendant Third Witness</b>	( )	Cross-Examination	( )
	( )	Witness Presentation	( )
<b>Closing Argument</b>	( )		( )
<b>Total</b> (Total scores in each column)	( )	<b>← NO TIES →</b>	( )

**Please give ballot to presiding judge before debriefing.**

WHITE: Coordinator  
 YELLOW: Prosecution/Plaintiff  
 PINK: Defense/Defendant

**TIEBREAKER BOX**

(Enter P or D →)

\_\_\_\_\_  
**Judge's Signature**

# OUTSTANDING WITNESS NOMINATION FORM

*(Optional)*

This form is to be completed by the presiding judge, signed by a majority of the judging panel and submitted with the score sheets/ballots by the presiding judge to a mock trial coordinator following the round.

PLEASE PRINT LEGIBLY

\_\_\_\_\_  
Round Number

\_\_\_\_\_  
Team Code

\_\_\_\_\_  
Student Name (from Team Roster)

\_\_\_\_\_/\_\_\_\_\_  
Judge's Signature and Points Given to this Student on your Ballot

\_\_\_\_\_/\_\_\_\_\_  
Judge's Signature and Points Given to this Student on your Ballot

\_\_\_\_\_/\_\_\_\_\_  
Judge's Signature and Points Given to this Student on your Ballot

\_\_\_\_\_/\_\_\_\_\_  
Judge's Signature and Points Given to this Student on your Ballot

\_\_\_\_\_/\_\_\_\_\_  
Judge's Signature and Points Given to this Student on your Ballot

\_\_\_\_\_  
Presiding Judge's Signature

# OUTSTANDING ATTORNEY NOMINATION FORM

*(Optional)*

This form is to be completed by the presiding judge, signed by at least three members of the judging panel and submitted with the score sheets/ballots by the presiding judge to a mock trial coordinator following the round.

PLEASE PRINT LEGIBLY

\_\_\_\_\_  
Round Number

\_\_\_\_\_  
Team Code

\_\_\_\_\_  
Student Name (from Team Roster)

\_\_\_\_\_/\_\_\_\_\_  
Judge's Signature and Points Given to this Student on your Ballot

\_\_\_\_\_/\_\_\_\_\_  
Judge's Signature and Points Given to this Student on your Ballot

\_\_\_\_\_/\_\_\_\_\_  
Judge's Signature and Points Given to this Student on your Ballot

\_\_\_\_\_/\_\_\_\_\_  
Judge's Signature and Points Given to this Student on your Ballot

\_\_\_\_\_/\_\_\_\_\_  
Judge's Signature and Points Given to this Student on your Ballot

\_\_\_\_\_  
Presiding Judge's Signature

# TEAM ROSTER - PLAINTIFF

Team roster forms are to be completed and duplicated prior to arrival at the competition site. At regionals, be prepared to provide 3 sets of Defense Rosters and 3 sets of Plaintiff/Prosecution rosters (there is no guarantee that you will do each side of the case twice).

At finals, be prepared to present 1 set of each.

Before the start of each round of competition, rosters are to be presented to:

- Presiding Judge (1); Scoring Judges (4); Opposing Counsel (1)

•  
**REMEMBER:** Your team will be identified ONLY by your Team Code

***PLEASE type or print neatly***

## Team Code

### Round 1 - 2 - 3 - 4

(Circle one)

Names of Attorneys	Tasks	Witnesses Examined
1) _____ (Student Attorney 1)	Opening / Dir / C-X    Direct:  Cross:	_____ (Witness)  _____ (Witness)
2) _____ (Student Attorney 2)	Dir / C-X    Direct:  Cross:	_____ (Witness)  _____ (Witness)
3) _____ (Student Attorney 3)	Closing / Dir / C-X    Direct:  Cross:	_____ (Witness)  _____ (Witness)

Names of Witnesses (Number below in order of appearance)	Gender of Witness (Circle one)	Role to be Portrayed
) _____	M                      F	_____ Jamie Anderson
) _____	M                      F	_____ Phoenix Hopp
) _____	M                      F	_____ Michael R. Robertson, MD
7) _____		_____ Timekeeper

**REMINDER:** Team members not participating must sit behind the bar and may not communicate with participating team members during round.

# TEAM ROSTER - DEFENSE

Team roster forms are to be completed and duplicated prior to arrival at the competition site.  
 At regionals, be prepared to provide 3 sets of Defense Rosters and 3 sets of Plaintiff/Prosecution rosters (there is no guarantee that you will do each side of the case twice).

At finals, be prepared to present 1 set of each.

Before the start of each round of competition, rosters are to be presented to:

- Presiding Judge (1); Scoring Judges (4); Opposing Counsel (1)

•  
**REMEMBER:** Your team will be identified ONLY by your Team Code

***PLEASE type or print neatly***

## Team Code

### Round 1 - 2 - 3 - 4

(Circle one)

Names of Attorneys	Tasks	Witnesses Examined
1) _____ (Student Attorney 1)	Opening / Dir / C-X    Direct:  Cross:	_____ (Witness)  _____ (Witness)
2) _____ (Student Attorney 2)	Dir / C-X    Direct:  Cross:	_____ (Witness)  _____ (Witness)
3) _____ (Student Attorney 3)	Closing / Dir / C-X    Direct:  Cross:	_____ (Witness)  _____ (Witness)

Names of Witnesses (Number below in order of appearance)	Gender of Witness (Circle one)		Role to be Portrayed
) _____	M                  F		Taylor Williams
) _____	M                  F		Pat Clifford
) _____	M                  F		Sydney Freed, PhD
7) _____			Timekeeper

**REMINDER:** Team members not participating must sit behind the bar and may not communicate with participating team members during round.

# NOTES