

LAW DAY 2010 SECONDARY SCHOOL MOCK TRIAL TOURNAMENT
FREQUENTLY ASKED QUESTIONS

*****We encourage all participants to become thoroughly familiar with the rules. The Frequently Asked Questions found below, as well as the highlighted rules found at the end of this section serve to enhance your understanding of the rules and are, as such, an integral part of the Mock Trial Rules and Guidelines.***

QUESTION-1: Is there an official ruling prohibiting teams from entering or referring to the kits materials (fact sheets, etc) during the trial in the form of “witness statements” given to the police?

ANSWER-1: *Student lawyers may **NOT** introduce the kit materials nor specifically read them in court. Any school that tries this will be penalized. The fact sheets or anticipated statements are not verbatim statements of the witness and thus not subject to cross-examination. If a school has re-typed them and altered the facts, that school is guilty of unfair deviation and any Crown would be deemed to be acting inappropriately if not obstructing justice. There can be NO deviation from this rule.*

QUESTION-2: What if the crown holds up a piece of paper (on which they have retyped the fact sheet) and they ask the defence witness if they recognize it. The witness replies that they don’t recognize it, and the crown says that they should recognize it as it is the statement that they gave to the police.

ANSWER-2: *Such behavior undermines the witness’s credibility. Any Crown who claims that it is the statement they gave to the police is A) lying; B) misleading the witness; C) manufacturing evidence; D) many other things. There can be no deviation from the rules. This is not a prior statement of the witness unless the statement of the witness is in quotation marks and acknowledged by the witness. A direct quote is the **ONLY** exception. Even at that, the witness cannot be crossed on what another witness will claim they said. At most they can be asked if there was other evidence that they stated “X” would they agree or disagree. Briefly put, one witness cannot be crossed on what the other witness claims they said but can be asked if they agree or disagree with other witness’ claim.*

QUESTION-3: Will students that have been named as alternates be able to compete, should the other students on the team become unavailable?

ANSWER-3: *A team is made of four (4) counsels and two (2) witnesses. If, and only IF one of the team members is ill, then they can have a replacement. However, it is important to note that that replacement must remain in the same*

team position for the remainder of the day; in other words meaning that the replacement must not have viewed other competitions that day and all other rules that would apply to the original team member would have to apply to the new replacement as well.

QUESTION-4: Can counsel from last year be a witness this year?

ANSWER-4: No. Counsel from last year cannot be a witness this year. Anyone who has played counsel last cannot play *any* role (i.e. cannot be counsel/lawyer again). Only witnesses from previous years can perform again and only as counsel.

QUESTION-5: Is there a restriction on the number of observers, e.g. classmates, parents, etc., permitted?

ANSWER-5: *No restriction, provided that the observers meet the "observers' rule" (set out in the Judges' Package).*

Observers Rule

In recent years, we have encountered problems with the participation of observers watching other teams that are not their own and possibly learning inside secrets thus leading to the impression of an unfair advantage. Because of this practice we have implemented the Observers' Rule. Anyone related to a team (be it student, coach, parent, mentor, etc) will only be allowed to observe their own team compete. Any violation of this rule will result in team disqualification. Note: An exception will apply if a particular team does not advance in the competition. Observers of that particular team will then be at liberty to observe any other mock trials.

QUESTION-6: Are instances of coaching, comments, shouts, heckling, etc. from teachers, coaches, observers, etc. allowed during the course of the trial?

ANSWER-6: *Such instances would be approached in the same manner as "real" court, in that; the offender would be removed from the courtroom. In addition, the presiding judge may (shall) make a statement at the opening of the trial that anyone committing such acts will be removed from the courtroom forthwith. Please note that there will be no other penalties or deduction marks. We would also ask that at the beginning of each trial, that ALL of the rules be communicated to the participants.*

QUESTION-7: With regard to “qualifying” student participants, what happens if someone makes a complaint to the tournament adjudicator?

ANSWER-7: *The adjudicator will enquire of the team teacher and make a ruling; and if it is later found to have been inaccurately described to the adjudicator, that team would be disqualified.*

QUESTION-8: If school teams have a concern with respect to the Unfair Deviation Rules, could they use the "code words" "you are aware that you are under an obligation to tell the truth" as a trigger to the trial judge and markers, that they think that there has been an unfair deviation?

ANSWER-8: *Yes, this is permissible. There is, however, still a limitation if it is to their advantage, from a strategic point of view, not to have the evidence as presented by the witness questioned.*

QUESTION-9: Are we permitted to introduce our own physical evidence at trial (the bottles) or use demonstrative evidence (ie. map of the property)?

ANSWER-9: *In previous years, we have allowed FAKE cocaine, marijuana etc. (baby powder, thyme leaves).*

As there is no need to produce any other physical evidence, only the bottles can be introduced.

QUESTION-10: Can the witness "police officer" use his notebook while testifying (to refresh his memory)? The concern is that the notebook may contain other information (other than the facts of the case) e.g. an option of answers to a variety of questions that may be asked.

ANSWER-10: *We should give the students the benefit of the doubt. If there is a concern that something has been written that is "an extra", then the team that has that suspicion, should simply ask to see the notebook. However, should they so wish, BOTH teams are allowed to see the officer's notebook.*

QUESTION-11: Must all lawyers examine a witness?

ANSWER-11: *Yes, all lawyers must examine a witness. Each student must be involved in one aspect of an examination in chief or a cross-examination. This applies to all schools.*

QUESTION-12: Will the Secondary School Mock Trial coordinator be personally present or will one be present when the semi-finals are taking place to rule on illegal procedures as the judges are frequently not aware of the Mock Trial rules?

ANSWER-12: *Both Shelley Timms and Paul Calarco intend to be at the Law Day tournament (quarterfinal, semi-final and final rounds) in Toronto (April 14th and 15th, 2010). It will be expected that judges know the rules. We will not interrupt a ruling from a judge nor interfere with their marking. Of course, if the judges have any questions, Shelley and Paul will be on hand.*

QUESTION-13: Can counsel wear gowns if they have a set?

ANSWER-13: We only allow gowning if BOTH schools get to gown and only as counsel. We want to keep the playing field level.

SOME RULES TO KEEP IN MIND....

Unfair Deviation Rule

In recent years, we have encountered problems with students embellishing the facts of the case. In other instances, witnesses have not answered questions in accordance with their respective fact sheets. These occurrences have accordingly resulted in unfairly skewing the case. It is for these reasons that the **Unfair Deviation Rule** was created. This rule appears in Part III of the Format of Tournament and Specific Case. The rule is, however, extremely difficult to apply and we hope that it will not be necessary to have it imposed on either team. In any event, the rule should not be the deciding factor in your evaluation unless the competition proves to be very close and the violation is of a serious nature.

Observers

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Participation and Eligibility

In recent years, we have encountered problems with the participation of students and the roles they have played. Accordingly, the participation and eligibility rule has been implemented. All the students on the team must be full-time students at a high school in Ontario. Students who have participated in a past inter-tournament as council are ineligible to compete in a current tournament. Students who have participated as witnesses in a past inter-school tournament may participate again. Any violation of this rule will result in team disqualification.