ISBA High School
Mock Trial Invitational

HANDBOOK OF RULES AND PROCEDURES

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A Project of the ISBA Standing Committee on
Law-Related Education for the Public and
Illinois LEARN, Inc.

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PART A. TOURNAMENT RULES, PROCEDURES & GUIDELINES

I. INTRODUCTION

A. The ISBA High School Mock Trial Invitational (the "Invitational") provides an opportunity for students to learn what it is like to prepare and present a legal case before the Illinois Courts. Through the mock trial experience, students learn to work as a team, develop oral presentation skills, set goals, plan effectively, think on their feet, and face challenging obstacles with enthusiasm and confidence.

B. **To the teachers, lawyers and judges who participate in this program:** Thank you for contributing your talents and time! By doing so, you make an exceptional educational opportunity available to the youth of Illinois.

C. The state-level mock trial presentations are only one component of this activity and are intended to showcase team achievement. While "winners" are announced, the entire program provides an opportunity for students to learn about the legal system. If students meet the goals set forth below, they will have achieved an extraordinary level of success in their high school careers.

D. While the educational nature of the program is the primary focus, we recognize that there is a competitive factor as well. Mock trial participants should bear in mind that, in any given trial, the judges and jurors may view the case differently than the parties do. Teachers and attorneys should prepare students to accept winning or losing at trial with dignity and restraint, and participants should show respect for opposing teams, presiding judges, and evaluators.

E. **All participants must follow all official Invitational rules**. Schools, teams, or participants who violate the rules may be disqualified and may be eliminated from present and future participation in the program.

F. Finally, please remember that this is an educational program offered with the assistance of volunteer lawyers and judges who donate their time and expertise to provide an educationally stimulating exercise for the students.

G. If you have any questions, please email the Mock Trial Coordinator at: **il.hs.mocktrial@gmail.com.**

H. The Illinois State Bar Association thanks the following for their support and assistance with the ISBA High School Mock Trial Invitational:

ISBA Standing Committee on Law-Related Education for the Public

Illinois LEARN, Inc.

II. GOALS OF THE ISBA HIGH SCHOOL MOCK TRIAL INVITATIONAL

Students who participate in mock trial programs increase their knowledge and skills, better understand our system of justice, and improve their ability to articulate in a reasoned, thoughtful, and persuasive manner. The ISBA Mock Trial Invitational's goals are:

- ✓ To increase student understanding of the American judicial system.
- ✓ To familiarize students with the law, courtroom procedures, and the legal system.
- ✓ To build bridges of cooperation, respect and support between the community and the legal profession.
- ✓ To improve basic skills such as listening, speaking, writing, reading, analyzing, and working as a team.
- ✓ To learn the meaning of good citizenship in a democracy through participation in our system of law and justice.
- ✓ To develop team spirit, establish objectives, and work toward a common goal.

III. REGISTRATION PROCEDURES

A. The Mock Trial Registration Materials and registration procedures are available online at:

http://www.isba.org/teachers/mocktrial

B. Please review the Registration Materials carefully to ensure your team completes all necessary steps. The Registration Materials list required documents and deadlines for submission. Please contact the Mock Trial Coordinator with any questions.

C. Payment of the registration fee may be made by check, money order payable to **LEARN** or by credit card, as set forth in the Registration Materials. Illinois LEARN is a not-for-profit corporation associated with the ISBA. No purchase orders will be accepted.

IV. ENTRY CRITERIA

A. **Prior Competition:** Prior to attending the Invitational, each team must complete at least one of the following prior competition trials, which must be judged or evaluated by a judge or attorney volunteer: (a) a practice trial or scrimmage with another school, (b) a practice trial or scrimmage with another team from their school, or (c) compete in a regional competition. A teacher coach from each team must sign and submit a Certification of Participation Form prior to attending the Invitational.

B. **One Team Per School:** Due to space and time limitations, official registrations may only be submitted by one team per school or group approved by the LRE Committee.

V. LAW TEST

A. **Law Test Introduction:** The Invitational includes a written Law Test, which tests the team's knowledge of the case, the Mock Trial Rules of Evidence, and other law-related topics. There is a Practice Law Test available on the ISBA's Mock Trial website at: http://www.isba.org/sites/default/files/teachers/mocktrial/mocktrialpretest.pdf. Teachers and coaches may obtain an answer key to the Practice Law Test by emailing ISBA Staff Liaison Kim Furr at **kfurr@isba.org**.

B. The Law Test consists of multiple choice and true/false questions. Each team's Law Test score will be the average of the individual team members' scores. The team with the highest team score on the Law Test will receive the **Donna M. Schechter Memorial Law Test Award** and will have its name engraved on a perpetual plaque to be displayed at the ISBA office in Springfield, Illinois.

C. If a student listed on the Official Team Roster (described further below), including alternates and/or timekeepers, cannot take the Law Test for **any** reason, that student will receive a Law Test score of zero (0), which will factor into the participating team's average score.

D. **Law Test Factors Into Determination of Final Teams:** The team Law Test score is one of the factors that will be used to determine the teams that will participate in the final round of trials, along with the team's scores from the Saturday and Sunday preliminary trials.

E. **Law Test Time Slots:** Teams are assigned time slots within which to take the Law Test. All team members must complete the Law Test during their team's assigned time slot. For example, if your team is assigned to the 10:00 a.m. – 12:00 p.m. slot, your team may start the Law Test at any time beginning after 10:00 a.m., and all team members' tests must be turned in by 12:00 p.m. Time slots will be assigned to teams randomly, based on availability of space and trial schedules. Unless the Coordinator receives a Special Requests Form by the deadline in the Registration Materials, the Coordinator and LRE Committee, in their sole discretion, may deny a request for additional accommodations regarding time slots. If a team fails to complete the Law Test during its assigned time slot, that team will receive a team score of zero (0) on the Law Test, absent extraordinary circumstances to be determined by the Coordinator and the LRE Committee.

All team members listed on the team's Official Team Roster, including alternates who do not participate in a trial, must take the Law Test during the team's assigned time slot. The Official Team Roster that will be used to check in the team members for the Law Test is the most recent version of the Official Team Roster that is timely submitted by the team to the Coordinator.

F. **Special Requests:** If a team has a special request for its Law Test time, that team must submit a Special Requests Form, which may be found in the Registration Materials, by the stated deadline stated in the Registration Materials. Every effort will be made to accommodate all timely requests; however, **there are no guarantees that requests will be honored**. Teams should plan to be available to take the Law Test on either day of the

Invitational. Requests for a time slot for the Law Test must be for a legitimate reason (i.e., a specific conflict with a day or time, as opposed to a general preference as to time).

VI. SCHEDULING

A. **Special Requests:** If a team participating in the Invitational has a special request for a trial time on either day, or for the Law Test, that team must submit a Special Requests Form, which may be found in the Registration Materials, by the deadline stated in the Registration Materials. Every effort will be made to accommodate all requests; however, **there are no guarantees that requests will be honored**. Teams are expected to be available for any assigned trial and Law Test time. Until teams arrive, all times are approximate due to last minute drops and other scheduling issues.

B. Special Requests made must be for legitimate reasons, and an explanation of the request must be provided. Failure to make a legitimate request or provide an explanation for the request will result in the request not being accommodated. The Coordinator and the LRE Mock Trial Subcommittee shall be the sole individuals responsible for determining whether a special request is legitimate or not. (An example of a request that will not be honored would be for a later trial time so that students may sleep in). If the Coordinator and LRE Mock Trial Subcommittee determine that they need more information or that they will not honor the request submitted, the Coordinator will reach out to the team's Coach to make them aware of the request not being honored.

C. Requests made after the deadline has passed will not be accommodated.

VII. TEAMS

A. <u>Student Participation Requirements</u>.

1. All participating students must be currently enrolled in grades nine through twelve at the time of the Invitational.

2. Each Illinois high school may enter only one team.

3. **Maximum Number of Students:** Each team may have a maximum of ten students. These ten students must be listed on the team's Official Team Roster. Only those students who are listed on the Official Team Roster may participate in any form (i.e., as an attorney, a witness, a timekeeper, or an alternate).

4. **Number of Students Who Participate During a Trial:** Of the ten students listed on the team's Official Team Roster, a minimum of five and a maximum of seven may participate during a trial. Students participate during a trial as either an attorney or as a witness. At a minimum, each trial team must have two students participate as witnesses and three students participate as attorneys. A timekeeper does not count towards the minimum 5 student requirement to participate during a trial.

5. **Student Alternates:** Teams may have student alternates that may participate in a trial as an attorney or witness if another team member is unable to participate. Student alternates

may act as timekeepers during a trial, if they are not participating as a witness or attorney. Student alternates are considered team members, and they must be included as part of the maximum of ten students that may be listed on the team's Official Team Roster, i.e. they cannot be additional students above the maximum ten students.

B. Affiliation with Approved Sponsor. Each team must be affiliated with a sponsoring school or a group such as a law explorer group, home school group, or other group approved by the LRE Committee. This program is limited; teams will be accepted on a first come/first serve basis as registrations are received.

C. Adult Coach or Supervisor/Sponsor. Each team, no matter its affiliation, must have an adult coach or supervisor/sponsor. The ISBA does not permit "independent" ad hoc teams comprised of individuals not part of an officially sponsored group. **"All-star" teams pulled from various groups or schools are not acceptable.**

D. Rules/Forms. All participants must read these Rules and must indicate that they have read and understood them on the appropriate forms provided in the Registration Materials.

E. Failure to Appear. If a team registers for the Invitational but fails to appear for trial *without reasonable and proper notification*, that team will be prohibited from participating in the Invitational the following year. If a team experiences illness or other problems that render the majority of its team members unable to participate, the team may continue in the Invitational with a minimum of five participants (three acting as attorneys and two acting as witnesses). Teams with fewer than five available participants will automatically forfeit the opportunity to proceed to the final ten trials but may continue participating so long as the reduced number does not infringe on the ability of the opposing team to perform.

F. Present Both Sides/Seven Team Members/Alternates. Teams must be prepared to present both sides of the case. Teams may fill the two witness and the attorney positions from their team roster in any manner they choose for any single trial, so long as a minimum of five and a maximum of seven team members participate. Team members may not switch roles during the trial. A student participant cannot both portray a witness and participate as an attorney in the same trial. **Alternates may participate if needed, so long as no more than seven team members participate as either an attorney or a witness in each trial.**

G. Official Team Roster. Teams must have their Official Team Roster finalized and/or updated and given to the Coordinator, via email to il.hs.mocktrial@gmail.com, **before 10:00 a.m. Central Time on Saturday of the Invitational, or before the first round of Invitational trials begins, whichever is earlier**. Changes submitted after that time will not be accepted. The Official Team Roster will be determined by the most recent copy of the roster received by the Coordinator as of 10:00 a.m. on that Saturday or the beginning of the first round of Invitational trials, whichever is earlier.

VIII. TOURNAMENT FORMAT

A. The Invitational is a two-day, weekend event (Saturday and Sunday) with a limited number of officially registered teams presenting their trials during the event. Teams will be accepted on a first-come/first-serve basis, based on the order of registration.

B. Trials will begin at approximately 10:00 A.M. CST on Saturday, depending on the number of teams participating and other logistical considerations.

C. Schools and approved groups must make all room reservations on their own and are responsible for all hotel charges. Schools are responsible for all transportation costs. No meals will be provided by the ISBA for this event.

D. The ISBA, sponsors of the event, and the venue for the program assume no responsibility for student participants. The responsibility for students' safety and well-being rests with the participating high schools, teacher coaches, and chaperones**.**

E. Teams will be paired for each trial by a random draw, with the potential for adjustments to account for timely Special Requests. Teams will participate in one trial on Saturday (as prosecution/plaintiff or defense) and will argue the opposite side of the case on Sunday. The teams accumulating the highest number of points will be announced on Sunday. This accumulation includes the results of both trials, plus that team's Law Test score. The ISBA and the LRE Committee will announce the ten schools that received the highest scores and may conduct a final trial round. If a final trial round is held, a random draw will be made as to which teams face each other and which side each team will represent.

F. If the ISBA, the Coordinator, and the LRE Committee determine that a final trial round will not be held, the top three schools will be announced following the Invitational. The team achieving the highest point total, whether by final trial or not, will be declared the state champion team and will advance to the National High School Mock Trial Championship as Illinois' representative. If the first-place team is unable to participate in the National High School Mock Trial Championship, the second-place team may participate in their stead.

G. The ISBA will grant **$1,000** to defray expenses for the winning team to attend the National High School Mock Trial Championship and pay the National High School Mock Trial Championship registration fee (**$500**). The state champion school is responsible for any remaining expenses. The National High School Mock Trial Championship is typically held over a weekend in May, and its location varies each year. More information can be found at: **http://www.nationalmocktrial.org/.**

H. Trial proceedings are governed by the Mock Trial Rules of Evidence, the ISBA Code of Conduct for Mock Trials contained in the Registration Materials, and these Rules, all of which can be found at http://www.isba.org/teachers/mocktrial. No other rules are to be used at trial.

I. The ISBA reserves the right to cancel or revise the trial format at any time prior to or during the event, with appropriate notice to participants.

IX. CONDUCT AND DRESS CODE

A. **Conduct:** All participants are expected to display proper courtroom decorum and collegial conduct. This conduct is expected to continue at the hotel and while waiting to go to trial.

B. **Dress Code:** All participants are also expected to wear appropriate courtroom attire.

X. OVERALL BASIC TOURNAMENT RULES

A. **Governing Rules:** The Rules of this ISBA High School Mock Trial Invitational Handbook, the ISBA Code of Conduct for High School Mock Trials and the Mock Trial Rules of Evidence govern this event. These can be found at http://www.isba.org/teachers/mocktrial. No other rules may be used at trial.

B. **Scope of Case Materials:** The case materials may contain a statement of facts, pleadings, stipulations, witness statements/affidavits, jury instructions, and exhibits. The statement of facts is a synopsis of the case and should not be considered an official document for use in the trials. Witness statements and stipulations may NOT be disputed at trial. No additional statements/affidavits, jury instructions, exhibits or stipulations may be created by participants.

C. **Alteration of Case Materials:** Case materials, such as witness affidavits and case exhibits, may NOT be altered. This includes altering the exhibit numbers, enlarging certain portions of case materials, highlighting, redacting, or any other alteration of case materials. This rule does not, however, prohibit an attorney who wishes to impeach a witness on cross-examination from highlighting the portion of the witness's affidavit to which the attorney wants to direct the witness's attention. Nor does this rule prohibit an attorney, on either direct or cross examination, from asking a witness to identify a particular aspect of an exhibit by highlighting, circling, or otherwise drawing an indication on an otherwise unaltered case exhibit. Such highlighting or indications must be done live during that witness's testimony and cannot be done in advance.

D. **No Costumes or Demonstrative Exhibits:** Teams are prohibited from using costumes, accents, use of dialect, etc. or other props and/or demonstrative exhibits.

E. **Outside Materials:** Students may read materials other than those provided in preparation for the mock trial; however, they may only cite materials included in the ISBA mock trial packet, and they may only introduce into evidence those exhibits given in the case materials. Teams may NOT cite as authority any material that may be referred to in citations or footnotes in the materials.

F. **Jury Trials:** All trials during the Invitational will be conducted as jury trials. However, students do not have to concern themselves with the additional steps involved in a jury trial such as *voir dire* (jury selection) and jury instructions (when the judge explains the law to the jury). For purposes of these trials, students should address the evaluators (scoring judges) as the jury. Students should address the presiding judge when addressing remarks to the court.

G. **Time Limits:** Participants must adhere to the time limits specified on the time sheet in this Handbook. Judges may allow teams that exceed their time allowance to finish their presentations; however, points can be deducted from that team's score for going over time. Judges and evaluators may consider a team's lack of adherence to the time limits in scoring. Teams may not borrow time from one portion of a trial to use in another portion of a trial.

H. **Pre-Trial Motions:** When specifically allowed by the judge, pre-trial motions are limited to two minutes. Pre-trial motions may include entering stipulations and any other appropriate

motions listed for the case. No other pre-trial motions are allowed. Neither motions *in limine* nor motions to exclude witnesses from the courtroom are allowed. Parties may not make a motion for directed verdict, mistrial, or dismissal of the case at any time.

I. **Pre-Trial Conference:** A pre-trial conference with the presiding judge may be granted if the judge and parties agree. Student attorneys may request bench conferences during a trial to clear up any procedural or factual questions. Only one representative from each side may be present during bench conferences, which should be limited to no longer than one minute.

J. **Notes:** Witnesses may not use notes or notecards and doing so is a breach of the rules. If restricting a witness from using notes/notecards may harm the opposing team's presentation, the presiding judge in their sole discretion may allow the witness to continue to use the notes/notecards, but the judge and evaluators should view this as a rule infraction and may penalize with a point reduction.

K. **One Student Per Trial Role:** Teams may only have one student present each role. For example, only one student may present each side's Opening Statement. Only one student for the Plaintiff/Prosecution may present the closing argument and rebuttal close.

L. **Re-Direct and Re-Cross:** Re-direct and re-cross examination will be permitted at the sole discretion of the Presiding Judge at the request of the teams.

M. **Reserving Time for Rebuttal:** Teams are not required to ask the judge in advance to reserve time for rebuttal. If an attorney has time remaining, they may present a rebuttal argument if they elect to do so. The defendant/defense may not attempt to bar the prosecution/plaintiff from presenting a rebuttal closing simply because the prosecution/plaintiff did not reserve time in advance.

N. **Timekeeping:** To ensure that each team has an accurate timekeeping device, stopwatches will be provided by the ISBA. See *Guidelines for Students Acting as Timekeepers* later in this Handbook.

O. **Timely Start:** Teams are expected to be in the assigned courtrooms no later than ten minutes before the time trials are scheduled to begin. If a prior trial is still ongoing in the room, teams should wait quietly until they are let in by the bailiff. The start of trial will not be delayed longer than fifteen minutes beyond the scheduled start time. If a team fails to appear within the fifteen-minute time allotment, that team will forfeit the trial and the opposing team will receive a "bye." "Bye" teams are awarded the average number of points achieved by all teams participating in that particular trial time slot. If appropriate arrangements can be made, "bye" teams may go to trial at a later time instead. Extenuating circumstances may be taken into consideration by the judge. Advisors and observers should stay in the courtroom for the entire trial.

P. **Release of Scores and Rankings:** The ISBA does not release scores or copies of team's score cards. Judges and evaluators will have the option of giving written feedback after each trial round, in addition to brief verbal feedback. Both teams will be provided copies of any written feedback from their trial round following the Invitational. Following the final round, if one is held, the ISBA will announce the top three (3) teams in ranked order. Following the

conclusion of the Invitational, the ISBA will release a list of the Top 20 ranking teams for that year, in alphabetical order, via email to the participating teams. Outside of the top 3 ranked teams, a ranking will not be provided to schools that place amongst the top 20 teams.

Q. **No Electronic Devices:** Electronic devices, such as tablets and cell phones**,** are not permitted to be used in the courtrooms during trials. Any electronic devices present in the courtroom must be either turned off or in silent mode so as not to disturb trials. This rule applies to all participants, judges and evaluators, and attendees. Regional or invitational programs are encouraged to implement this rule, as well.

XI. DISPUTE RESOLUTION AND RULE VIOLATIONS

A. Rule Violations During Trial.

1. If, during a trial, a team has reason to believe that a significant violation of the rules has occurred and that the violation may be corrected during the course of the trial, a member of that team should request a bench conference and communicate the complaint to the presiding judge. To the extent possible, the judge will attempt to resolve the dispute during the trial.

2. The presiding judge will be allowed to consider the dispute when marking their own score sheet. The dispute may or may not affect the final decision. The matter will be left to the discretion of the presiding judge and their decision will be final.

3. If the judge is unable to make a determination on a possible rule infraction, the judge may consult a member of the LRE Committee for input. Coaches, observers and team members are not permitted to contact the Coordinator, ISBA staff members, or LRE Committee members during the trial in an attempt to resolve a dispute about a rule. Rule violations must be addressed solely with the judge during a trial.

B. Concerns After Trial Concludes.

1. If concerns remain or were not brought out during trial and a team has a serious reason to believe that a significant rules violation has occurred, **the teacher or lawyer coach** shall communicate the complaint to the presiding judge, to the Mock Trial Coordinator, or to a member of the LRE Committee. The evaluators should continue to complete their score sheets and offer comments to the teams during this time. The Coordinator and the LRE Committee may, at their discretion, call upon representatives from the teams to discuss the allegations.

2. All decisions of the Coordinator and the LRE Committee are final. Parents, non-participating students, and observers should not bring any rule-violation allegation to the Coordinator, LRE Committee, or presiding judge.

3. If there is a concern about an evaluator or presiding judge for any reason, the coach of a team may bring that to the attention of the Mock Trial Coordinator or LRE Committee member after the conclusion of a trial. Coaches should be mindful that personal disagreements with how a judge or evaluator ruled on objections, ran a courtroom, etc.

are not the types of valid complaints that the LRE or Mock Trial Coordinator will take action regarding. Only the head coach of a team may bring such an issue to the attention of the Mock Trial Coordinator or LRE Committee member. Under no circumstance should a coach be emailing the Coordinator or LRE Committee member during a trial about any concerns. The Mock Trial Coordinator and LRE Mock Trial Committee chair and LRE Committee will determine what, if any, action should be taken regarding a complaint or concern regarding an evaluator/judge. The decision of how to address any such complaints will be in the sole discretion of the Mock Trial Coordinator and LRE Committee and will be final.

XII. ROSTERS/ATTENDANCE PROCEDURES DURING TRIAL

A. **Official Team Roster:** By the deadline stated in the Registration Materials, each team must submit an Official Team Roster to the Mock Trial Coordinator. The Official Team Roster may not list more than ten students. Only those students whose names are included in the Official Team Roster may participate in the Invitational. All changes to a team's Official Team Roster must be submitted to the Mock Trial Coordinator before 10:00 a.m. CST on the Saturday of the Invitational.

B. **Trial Roster:** Prior to each trial, teams must complete a Trial Roster, using the form provided in the Registration Materials or a similar format. The Trial Roster may not list more than seven students. Each student listed on the Trial Roster must be one of the students listed on the team's Official Team Roster. Teams must provide one copy of the Trial Roster to the opposing team, one copy to the presiding judge, and at least one copy to the jurors/evaluators. If possible, please provide additional copies for each juror/evaluator. Your school folder, provided at the check-in desk, will contain extra Trial Roster forms for distribution to the opposing teams. The trial roster forms must be ready at the start of the trial to ensure that trials remain on schedule.

XIII. VIDEOTAPING, PHOTOGRAPHY AND AUDIO RECORDING

A. Video or audio taping of trials is allowed only if both teams and the presiding judge agree, the camera is stationary, and the taping does not disrupt the trial. **Teams recording a trial must submit a copy to the ISBA to be used for educational and promotional purposes**. The recording device should be placed either at the counsel's table or in the audience. Photographs should be taken only before trial begins and/or after trial concludes. No photos may be taken during the trial proceedings except by photographers designated by the Coordinator and/or ISBA.

B. Absent prior approval as described in Paragraph A, observers may not take photographs, video recordings or audio tapes of the trials once the presiding judge commences the trial, nor at any point throughout the trial or post-trial evaluation period. Observers who do not comply with this prohibition may be asked to leave the courtroom at any time at the discretion of the judge, the Coordinator, or a LRE Committee member.

XIV. SPACE LIMITATIONS

A. The ISBA reserves a block of rooms from the venue and is restricted to use of those rooms. Some rooms are larger than others. Each school will be given priority seating for the team, teacher and lawyer coach, and will be assigned a number of priority seats in the room for guests observing the trial. If there are empty seats available after those with priority are seated, others may be seated. Please cooperate with the ISBA to ensure that we do not violate the terms of our agreement with the venue.

B. **Space at the event is limited**. Teams should be mindful of the registration deadline in the Registration Materials. **Teams will be registered in the order their registration forms are received. While unlikely, if the venue's space for trials is exceeded, registration will be closed and registrations beyond the space limited will not be accepted.** Teams that are unable to participate due to space limitations will receive a refund of their registration fee. The ISBA cannot guarantee that teams that register after the deadline in the Registration Materials will be allowed to participate if space at the venue becomes an issue.

C. The ISBA reserves the right to limit the number of guests viewing any trial in order to abide by the maximum room capacity for each room. Consider these limitations when inviting guests. During the Invitational, teams may not change rooms without the express permission of the LRE Committee and/or Coordinator. Teams violating this rule or causing disruption, whether by the team's students, guests, advisor, or teacher, may be immediately disqualified and may be barred from future participation for a period of at least one year at the sole discretion of the LRE Committee Chair.

XV. OBSERVERS

A. Parents, family members, friends, and classmates of team members are welcome to attend and observe the trials of their student's team, provided space limitations permit. Observers should be quiet, courteous, and cooperative during the trial.

B. Observers must be in the courtroom at least ten minutes before the start of a trial they are observing. Latecomers cannot be guaranteed entry into the courtroom, as late entry may disturb the trial. If an observer arrives after a trial has started, they should wait outside of the courtroom for a bailiff, LRE Committee Member or the Coordinator to assist them in entering the courtroom at a break in the trial.

C. Observers may not communicate with any team members once the presiding judge starts the trial, nor at any point throughout the trial proceedings, any recesses or breaks in a trial, or post-trial evaluation period.

D. If an observer believes there is a reason for a dispute, the observer should discuss the issue with the lawyer-coach or teacher. Only teachers and lawyer coaches are permitted to discuss any dispute resolution matters with the LRE Committee and the Coordinator.

E. It is the responsibility of the teacher, lawyer coach and/or students to ensure that family members and friends who plan to attend the Invitational are aware of these rules and comply

with them. All teachers/coaches and students will be asked to sign a Code of Conduct affirming that these rules have been reviewed with their family and friends that attend the event. An attendee's failure to comply with this Handbook may result in the attendee being removed from the event, at the discretion of the Coordinator and LRE Committee.

XVI. VIEWING OTHER TRIALS

A. If space is available after those with seating priority have been seated, students, advisors and teachers may view another team's trial. Students, advisors and teachers of non-participating teams viewing a trial may be asked to leave the courtroom at any time at the discretion of the presiding judge, the Coordinator, or an LRE Committee member.

XVII. PUBLICITY

A. The ISBA prepares a press release and submits it to the newspapers in the areas where teams are located. The ISBA encourages teams to solicit local publicity. If a school needs assistance in preparing a press release, contact the ISBA at (217) 525-1760. Schools are also encouraged to reach out to local community groups and share their experiences preparing and participating in Mock Trial.

XVIII. GUIDELINES FOR LAWYER COACHES/ADVISORS

A. All teams participating in the Invitational are STRONGLY ENCOURAGED to use a lawyer coach or advisor to assist them with preparations for the Invitational. Local lawyer coaches/advisors should be considered an integral part of the educational process. They help fulfill one of the stated goals of this program—to build bridges of mutual cooperation, respect, and support between the community and the legal profession.

B. All lawyer coaches are expected to adhere to the rules, facts, and materials set forth in the ISBA High School Mock Trial Invitational Rules and Procedures Handbook. Please be aware that periodic changes are made to the rules. **Please read all materials carefully**.

C. The goal of the Mock Trial Invitational is to educate students. Coaches and advisors are reminded to keep the competitive spirit at a reasonable level. This exercise is intended to be primarily a learning experience, not a competition. The reality of the adversarial system is that one party wins and the other loses, and coaches should prepare their teams to be ready to accept either outcome in a mature manner. Coaches/advisors prepare students for either outcome by placing the highest value on excellent preparation and presentation, rather than on winning or losing the trial.

D. Students MUST formulate their own openings, closings, and questions. Teacher and lawyer coaches/advisors may assist and direct, but the work product must be that of the student participants.

E. If the lawyer coach/advisor believes there is a reason for a dispute, they should consult and follow the dispute resolution steps outlined in the *Dispute Resolution and Rule Violations* Section, above (Section A, XI).

F. Lawyer coaches/advisors may be asked to judge or evaluate trials (other than a trial in which the lawyer's child or school is a participant) but only if no other lawyer or judge is available to judge or evaluate a trial and only if the trial would not be able to proceed as scheduled without the involvement of the lawyer advisor.

G. If there is any break or recess in a trial for any reason, a coach is not permitted to have any communication with any student on the Official Team Roster, or any student participating in the trial round.

XIX. GUIDELINES FOR TEACHERS

A. All teachers must be familiar with this Handbook of Rules and Procedures, with the How A Mock Trial Works brochure, and with the required forms and deadlines for submission contained in the Registration Materials to ensure that their team can participate in the Invitational. The documents are available on the ISBA's website at: http://www.isba.org/teachers/mocktrial.

This website contains valuable training information for teachers about participation in the Invitational. Periodic changes may be made to the Rules and other mock trial information. Teachers should frequently check the website for updates. Teachers are responsible for reviewing any update memoranda posted on the webpage.

B. To ensure effective communication between teachers, the Coordinator, and the LRE Committee, teachers are responsible for providing accurate e-mail address information to the LRE Committee and the Coordinator.

C. If a team does not have an attorney advisor and a teacher acts as the advisor for the team, the teacher must adhere to the guidelines for attorney advisors set forth above.

D. At the Invitational, teachers are responsible for ensuring that their school's team acts in a courteous, safe, and cooperative manner; respects the rights and property of others at the event; and respects the property and premises of the host venue, including all public areas. Teachers are also responsible for ensuring the same conduct of their school's team at any hotel that houses the team during the Invitational.

E. Teachers are responsible for having their school's team timely participate in the Law Test and timely arrive at their assigned courtrooms for the trials in which they are participating.

F. If the teacher believes there is a reason for a dispute, the teacher should consult and follow the dispute resolution steps outlined in the *Dispute Resolution and Rule Violations* Section, above (Part A, Section XI).

G. Perhaps the most important consideration for teachers is to understand and to instill in their school team members that the goal of the Mock Trial Invitational is to educate students, and the event is intended primarily as a learning experience, not a competition. It is the firm belief of the ISBA and the LRE Committee that any student who successfully completes the rigorous learning program afforded by participation in the mock trial program will

experience an opportunity for personal growth as a result of the experience and will, therefore, have fully achieved the goals set forth by the ISBA and the mock trial program.

H. If there is any break or recess in a trial for any reason, a teacher coach is not permitted to have any communication with any student on the Official Team Roster, or any student participating in the trial round.

XX. EMERGENCIES

A. Each team shall designate one person to be the point of contact for the ISBA and the LRE Committee in the event of an emergency. This person shall be listed on the team's Registration Form and must accompany the team to the Invitational. It is preferred that this designated person be the teacher or attorney advisor for the team. If a change needs to be made to the point of contact, the Coordinator must be notified as soon as possible and provided a name and contact information for the new person.

B. 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. A team may motion for a recess only in the event of an emergency. If a recess is called, teams may not communicate with any observers, coaches, or instructors regarding the trial.

C. An emergency caused by inclement weather or other unexpected or unforeseen occurrence may come up that in the opinion of the ISBA, the Coordinator, and the LRE Committee prevents one or more schools from attending the competition. In such cases, a decision will be made by the ISBA, the Coordinator, and the LRE Committee regarding the rescheduling of the entire Invitational or the rescheduling of individually scheduled mock trial events. All efforts will be made to give as much advance notice as possible to teams affected by the emergency situation. Each team is responsible for monitoring state and local weather conditions that may prevent or hinder the team from attending the competition and each team should keep the Coordinator informed regarding any such adverse weather conditions.

D. If a team member is unable to participate in the Invitational, or any part of it, due to illness, injury or other health reason that occurs before the Invitational commences, the team is responsible for either having a substitute member available or proceeding without that team member. Any substitute member/alternate must be listed as one of the maximum of ten students listed on the team's Official Team Roster.

E. If after the Invitational commences, a team member is unable to participate or to continue to participate in a trial round due to illness, injury, or other health reason, a brief continuance of the trial round will be allowed in order to determine if the team member will be able to resume their participation in the round. If the team member is unable to continue to participate, the team will be allowed without undue delay to immediately substitute a new team member and the trial round shall continue. This new team member must be listed as one of the maximum of ten students listed on the team's Official Team Roster.

F. If a team member on the Official Team Roster is unable to participate in or continue to participate in the Law Test for any reason, including health-related, the team will receive a score of zero for that student.

G. The ISBA, the Coordinator, and the LRE Committee shall, in their sole discretion, be responsible for any and all final determinations of whether there is an emergency, how any mock trial event will be handled in view of any such emergency and whether there shall be any team forfeiture, reduction of points, or team advancement by reason of the emergency. In exercising that discretion, the ISBA, the Coordinator, and the LRE Committee may direct that a team take certain appropriate measures which would allow a team to continue to participate.

XXI. JUDGING AND EVALUATION

A. The presiding judge, who may also score the trial, will conduct each trial. The presiding judge has authority over matters concerning court procedure, and they may comment on or question the student attorneys or the witnesses at any time during the trial.

B. In addition to the presiding judge, at least three scoring evaluators will evaluate each trial. Evaluators may include attorneys, judges, educators, community leaders, law students, and other appropriate individuals approved by the LRE Committee.

C. At the end of each trial, the presiding judge may render a decision based on the merits of the case. This does not determine whether the team "wins" or "loses" the round for purposes of determining the finalists or other winners. Each presiding judge and scoring evaluator also rates the teams by awarding team points in several categories.

D. Numerical scores will not be released, either during or after the Invitational. The top 10 teams that will progress to the final round will be announced at the conclusion of the preliminary rounds on Sunday afternoon, and the top three teams will be announced following the final round.

Following the conclusion of the Invitational, the names of the top 20 ranking teams will be released in alphabetical order. No other rankings or scores will be released.

E. THE DECISIONS OF THE JUDGES AND EVALUATORS ARE FINAL AND ARE NOT OPEN TO DISPUTE.

XXII. GUIDELINES FOR PRESIDING JUDGES AND EVALUATORS

A. Every mock trial round has a presiding judge who will rule on the merits of the case, respond to objections, and direct the overall trial. In addition to the judge, each mock trial round will have evaluators who may be attorneys, judges, educators, community leaders, law students, other legal professionals, and other appropriate individuals approved by the LRE Committee. Evaluators will play the role of jurors.

B. Prior to each trial, we ask that all presiding judges read the following statement:

While the ISBA, the LRE Committee members, and the volunteer lawyers and judges all strive to evaluate teams and individuals in a fair and equitable manner, as with any subjective rating system there may be perceived inconsistencies. As in the Illinois courts, those who are disappointed and/or pleased with the results are expected to conduct

themselves with appropriate decorum and respect. Parents/Guardians, teachers and students have all signed a Code of Conduct and we expect all to follow it.

In the How a Mock Trial Works brochure, there is a section about Objections that I trust was read and reviewed by both teams prior to today, along with the Mock Trial Rules of Evidence. I want to re-emphasize to you that while you, the attorneys in this case, are permitted to make such objections to questions asked or evidence offered, that you should consider whether the objection ***should*** *be made.*

It is not my purpose to either encourage or discourage objections, but to remind you that when I, as the presiding judge, and the evaluators score this trial, the nature, manner, and frequency of objections will likely be considered and can thus enhance or detract from the evaluation given to an individual attorney or to the team. Thank you.

C. This Handbook and the Mock Trial Rules of Evidence govern all trials. Please study these rules, case materials, and score sheets before judging the trials.

D. The presiding judge should attempt to move the trial along. Each trial should last approximately one hour. Teams are given specified time limits for each portion of the trial. There will be at least one timekeeper at each trial. The judge may allow a team to finish its presentation if it exceeds its allotted time. However, the judge must report the over-time to the evaluators, who may consider it in scoring. The presiding judge may also complete a score sheet awarding points to each team.

E. If Team A believes that Team B has overrun a designated time limitation, Team A may bring the discrepancy to the judge's attention by objecting to the opposing attorney's remarks if the allotted time is exceeded. Judges may permit Team B to conclude its presentation quickly or may halt Team B's presentation accordingly. If time limitations are exceeded during opening or closing, during which objections are not allowed, at the conclusion of the opening/closing, the opposing team may call the time infraction to the judge's attention. Remember, when considering time violations the following are not timed: objections, bench conferences, or swearing in of witnesses.

F. Witnesses are bound by the facts in their affidavits as well as by the facts in other affidavits if it is apparent that the witness must have known the facts. Witnesses may also testify to any fact that may be reasonably inferred from the information contained in their own affidavit, especially if asked a question on cross examination that is not directly contained in their own affidavit. If a witness testifies in contradiction of a fact, the cross-examining attorney on the other team may impeach the testimony or point out the contradiction on cross-examination by introducing the witness's statement to the court. There is no objection to the "creation of a material fact," nor is there an objection to the testimony being "beyond the scope of the mock trial materials." Mock trial participants are expected to address any "creation" using other, more realistic objections or through impeaching the witness on cross-examination. If, however, a witness invents an answer that is very likely to affect the outcome of the trial, the opposition should object immediately and ask for a bench conference. The presiding judge will then decide whether to allow the testimony.

G. At the conclusion of the trial, the judge may offer a ruling as to which side has won on the merits of the case. This will have no bearing on whether a team actually wins the round. Evaluators may, but need not, render verdicts.

H. After the trial, judges and evaluators are encouraged to make oral comments which are informational and constructive to the students on their trial presentations. These comments should be BRIEF, as there is limited time between trials. "War stories" and other personal anecdotes are strongly discouraged. Judges and evaluators will have the option of providing written feedback to teams and these written comments will be provided to the teams in the round after the conclusion of the Invitational.

I. BEFORE judges and evaluators start giving their oral comments, they should complete their score sheets (a sample time sheet is provided below). Evaluators must award points based on performance and skills presented at trial. When deciding which team made the better overall team presentation, the judge and evaluators should consider the performances of all attorneys and witnesses for both sides.

J. Participants are rated according to a numerical scale. The judges and evaluators are scoring STUDENT ACHIEVEMENT in each category. **Judges and evaluators are not scoring on the merits of the case**. Judges and evaluators may consider penalties for violations of the Invitational's Rules, including any time limit violations. Penalties would reduce point awards in the appropriate categories. Penalties should not be indicated separately on the score sheet.

K. "Scoring as you go" is the easiest way to proceed through a mock trial. Judges and evaluators should score each student's performance immediately after that student performs. This ensures that the performance is fresh in the evaluator's mind and that scores are as accurate as possible.

L. Immediately after EACH trial, the completed and signed score sheets must be turned in to the bailiff, who will take them to the Coordinator. Evaluators should not leave their trial rooms until the Bailiff or Coordinator has indicated that their score sheets are completed.

M. DO NOT SHOW THE SCORE SHEET OR DISCUSS NUMERICAL SCORES WITH THE STUDENTS, TEACHERS, OR ATTORNEY ADVISORS.

XXIII. GUIDELINES FOR STUDENTS ACTING AS TIMEKEEPERS

A. One student from each team will be assigned the duty of keeping time during the trial. Stopwatches will be provided by the ISBA. **No outside electronics will be allowed to be used**. The judge will collect the stopwatches at the end of each trial and give them to the Coordinator or an LRE Committee member. Timekeeping forms will be provided by the Coordinator to the judge before each trial.

B. Student timekeepers may be alternate team members, but they must be one of the ten students listed on the Official Team Roster. As part of the ten-person roster, the student timekeeper is required to take the Law Test. Failure of the student timekeeper to take the Law Test will result in a score of zero for that student on the Law Test, and that score of zero will be factored into the team's overall Law Test score. Timekeepers for each team will be seated

next to each other and should agree, within reason, to the times entered on the time sheet. The presiding judge will be the final arbiter if time disputes arise. One timekeeper may be used, if both sides agree prior to trial. Please remember, the timekeeper cannot be a teacher or attorney advisor. **At the end of the trial, the timekeepers must submit their time keeping record to the presiding judge who will share it with the evaluators.**

C. Timekeepers should only stop timing for the swearing in of a witness, attorney objections, a judge's ruling on objections, bench conferences if any, or if instructed to do so by the judge. Regarding objections, timekeepers should stop time when the objection is made and resume time once the judge has ruled on the objection.

Timekeepers may use unobtrusive time props, such as cards, to indicate to team members how much time remains for presentations. Time props must not create a disruption in the trial (such as speaking, ringing bells, etc.).

D. Judges may allow teams to finish their presentations should they go over their time allowance. However, judges and evaluators will consider a team's adherence to the time allowances in making their evaluations and points may be deducted.

E. The ISBA Time Sheet form is provided in the How a Mock Trial Works brochure as an example. Each presiding judge will have official time sheet forms that will be distributed to timekeepers at the start of each trial at the Invitational.

PART B. MOCK TRIAL RULES OF EVIDENCE

I. GENERALLY

A. Rules of evidence regulate the admission of proof (i.e., testimonial or physical evidence). These rules ensure that parties receive a fair hearing and exclude any evidence deemed irrelevant, incompetent, untrustworthy or unduly prejudicial. If it appears that a rule of evidence is being violated, an attorney may raise an objection addressed to the presiding judge. The judge then decides whether the rule has been violated and whether the evidence (testimony or document) must be excluded.

B. Not every judge will interpret the rules of evidence in the same way. Students should be prepared to point out specific rules to which they may be referring or relying upon and argue for the interpretation and application of the rule they think proper. Regardless of how the judge rules, participants must accept the judge's ruling with grace and courtesy.

II. TIMING AND PROCEDURE FOR OBJECTIONS

A. Teams may NOT make objections during an opening statement for any reason.

B. The attorney who conducts the direct examination of a witness will also respond to any objections made to that direct examination by opposing counsel and will be the only attorney to make objections, if any, during the cross examination of that witness. No other attorney on the team will be allowed to make or respond to objections while that witness is testifying.

C. The attorney who conducts the cross examination of a witness will also respond to any objections made to that cross examination by opposing counsel and will be the only attorney to make objections, if any, during the direct examination of that witness. No other attorneys will be allowed to make or respond to objections while that witness is testifying.

D. Teams may NOT make objections during a closing argument or rebuttal argument for any reason.

E. If a participant would have objected during closing arguments had they been permitted to under the rules, after the end of closing arguments, that participant may address the court and advise that "If permitted to do so, I would have objected to (state the objectionable behavior) because (state reason)." The trial judge may comment on the objection. The evaluators may take the objection into consideration in their evaluation.

III. ADOPTION OF NATIONAL HIGH SCHOOL MOCK TRIAL RULES OF EVIDENCE

A. **IMPORTANT: The Illinois High School Mock Trial Program uses the National High School Mock Trial Rules of Evidence, which are attached as Appendix I.**

B. Teams may not make objections that fall outside of those allowed in the National High School Mock Trial Rules of Evidence. If an opposing team violates these rules, this paragraph may be brought to the attention of the presiding judge. Judges and evaluators may deduct points for inappropriate objections.

C. Creation of material fact is not a permissible objection.

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NATIONAL HIGH SCHOOL MOCK TRIAL CHAMPIONSHIP RULES OF EVIDENCE

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NATIONAL HIGH SCHOOL MOCK TRIAL CHAMPIONSHIP 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 judge will probably allow the evidence. The burden is on the mock trial team to know the National High School Mock Trial Rules of Evidence and to be able to use them to protect their 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 or underlined represent simplified or modified language.

Not all judges will interpret the Rules of Evidence (or procedure) 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 rule they think appropriate.

The Mock Trial Rules of Competition and these National High School Mock Trial Rules of Evidence govern the National 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 National High School Mock Trial Championship.

Rule 102. Purpose and Construction

These rules should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of ascertaining the truth and securing a just determination.

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Rule 104. Preliminary Questions

(a) In General. The court must decide any preliminary question about whether a witness is qualified, a privilege exists, or evidence is admissible. In so deciding, the court is not bound by evidence rules.

(b) Relevance That Depends on a Fact. When the relevance of evidence depends on whether a fact exists, proof must be introduced sufficient to support a finding that the fact does exist. The court may admit the proposed evidence on the condition that the proof be introduced later.

(e) Evidence Relevant to Weight and Credibility. This rule does not limit a party's right to introduce before the jury evidence that is relevant to the weight or credibility of other evidence.

Rule 105. Limiting Evidence That Is Not Admissible Against Other Parties or for Other Purposes

If the court admits evidence that is admissible against a party or for a purpose — but not against another party or for another purpose — the court, on timely request, must restrict the evidence to its proper scope and instruct the jury accordingly.

Rule 106. Remainder of or Related Writings or Recorded Statements

If a party introduces all or part of a writing or recorded statement, an adverse party may require the introduction, at that time, of any other part – any other writing or recorded statement – that in fairness ought to be considered at the same time.

ARTICLE II. JUDICIAL NOTICE

Rule 201. Judicial Notice of Adjudicative Facts

(a) This rule governs judicial notice of an adjudicative fact only, not a legislative fact.

(b) The court may judicially notice a fact that is not subject to reasonable dispute because it is a matter of mathematical or scientific certainty. For example, the court could take judicial notice that 10 x 10 = 100 or that there are 5280 feet in a mile.

(c) The court:

(1) may take judicial notice on its own; or

(2) must take judicial notice of a party requests it and the court is supplied with the necessary information.

(d) The court may take judicial notice at any stage of the proceeding.

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(e) On timely request, a party is entitled to be heard on the propriety of taking judicial notice and the nature of the fact to be noticed. If the court takes judicial notice before notifying a party, the party, on request, is still entitled to be heard.

(f) In a civil case, the court must instruct the jury to accept the noticed fact as conclusive. In a criminal case, the court must instruct the jury that it may or may not accept the noticed fact as conclusive.

ARTICLE III. PRESUMPTIONS IN CIVIL ACTIONS AND PROCEEDINGS (NOT APPLICABLE)

ARTICLE IV. RELEVANCY AND ITS LIMITS

Rule 401. Test for Relevant Evidence

Evidence is relevant if:

(a) it has any tendency to make a fact more or less probable than it would be without the evidence; and

(b) the fact is of consequence in determining the action.

Rule 402. General Admissibility of Relevant Evidence

Relevant evidence is admissible unless these rules provide otherwise. Irrelevant evidence is not admissible.

Rule 403. Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons

The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.

Rule 404. Character Evidence; Crimes or Other Acts

(a) Character Evidence.

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(1) Prohibited Uses. Evidence of a person's character or character trait is not admissible to prove that on a particular occasion the person acted in accordance with the character or trait.

(2) Exceptions for a Defendant or Victim in a Criminal Case. The following exceptions apply in a criminal case:

(A) a defendant may offer evidence of the defendant's pertinent trait, and if the evidence is admitted, the prosecutor may offer evidence to rebut it;

(B) a defendant may offer evidence of an alleged victim's pertinent trait, and if the evidence is admitted, the prosecutor may:

(i) offer evidence to rebut it; and

(ii) offer evidence of the defendant's same trait; and

(C) in a homicide case, the prosecutor may offer evidence of the alleged victim's trait of peacefulness to rebut evidence that the victim was the first aggressor.

(3) Exceptions for a Witness. Evidence of a witness's character may be admitted under Rules 607, 608, and 609.

(b) Other Crimes, Wrongs, or Other Acts.

(1) Prohibited Uses. Evidence of a crime, wrong, or other act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character.

(2) Permitted Uses. This evidence may be admissible for another purpose, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident.

Rule 405. Methods of Proving Character

(a) **By Reputation or Opinion.** When evidence of a person's character or character trait is admissible, it may be proved by testimony about the person's reputation or by testimony in the form of an opinion. On cross-examination of the character witness, the court may allow an inquiry into relevant specific instances of the person's conduct.

(b) **By Specific Instances of Conduct.** When a person's character or character trait is an essential element of a charge, claim, or defense, the character or trait may also be proved by relevant specific instances of the person's conduct.

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Rule 406. Habit, Routine Practice

Evidence of a person's habit or an organization's routine practice may be admitted to prove that on a particular occasion the person or organization acted in accordance with the habit or routine practice. The court may admit this evidence regardless of whether it is corroborated or whether there was an eyewitness.

Rule 407. Subsequent Remedial Measures

When measures are taken that would have made an earlier injury or harm less likely to occur, evidence of the subsequent measures is not admissible to prove:

- negligence;
- culpable conduct;
- a defect in a product or its design; or
- a need for a warning or instruction.

But the court may admit this evidence for another purpose, such as impeachment or — if disputed — proving ownership, control, or the feasibility of precautionary measures.

Rule 408. Compromise Offers and Negotiations

(a) **Prohibited Uses.** Evidence of the following is not admissible — on behalf of any party — either to prove or disprove the validity or amount of a disputed claim or to impeach by a prior inconsistent statement or a contradiction:

(1) furnishing, promising, or offering — or accepting, promising to accept, or offering to accept — a valuable consideration in compromising or attempting to compromise the claim; and

(2) conduct or a statement made during compromise negotiations about the claim — except when offered in a criminal case and when the negotiations related to a claim by a public office in the exercise of its regulatory, investigative, or enforcement authority.

(b) **Exceptions.** The court may admit this evidence for another purpose, such as proving a witness's bias or prejudice, negating a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.

Rule 409. Offers to Pay Medical And Similar Expenses

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

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Rule 410. Pleas, Plea Discussions, and Related Statements

(a) **Prohibited Uses.** In a civil or criminal case, evidence of the following is not admissible against the defendant who made the plea or participated in the plea discussions:

(1) a guilty plea that was later withdrawn;

(2) a nolo contendere plea;

(3) a statement made during a proceeding on either of those pleas under Federal Rule of Criminal Procedure 11 or a comparable state procedure; or

(4) a statement made during plea discussions with an attorney for the prosecuting authority if the discussions did not result in a guilty plea or they resulted in a later-withdrawn guilty plea.

(b) **Exceptions.** The court may admit a statement described in Rule 410(a)(3) or (4):

(1) in any proceeding in which another statement made during the same plea or plea discussions has been introduced, if in fairness the statements ought to be considered together; or

(2) in a criminal proceeding for perjury or false statement, if the defendant made the statement under oath, on the record, and with counsel present.

Rule 411. Liability Insurance

Evidence that a person was or was not insured against liability is not admissible to prove whether the person acted negligently or otherwise wrongfully. But the court may admit this evidence for another purpose, such as proving a witness's bias or proving agency, ownership, or control.

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 spouses;

(2) communications between attorney and client;

(3) communications between medical or mental health care providers and patient.

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ARTICLE VI. WITNESSES

Rule 601. General Rule of Competency

Every person is competent to be a witness.

Rule 602. Need for Personal Knowledge

A witness may testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may consist of the witness's own testimony. This rule does not apply to a witness's expert testimony under Rule 703. *(See Rule 2.2)*

Rule 607. Who May Impeach A Witness

Any party, including the party that called the witness, may attack the witness's credibility.

Rule 608. A Witness's Character For Truthfulness or Untruthfulness

(a) **Reputation or Opinion Evidence.** A witness's credibility may be attacked or supported by testimony about the witness's reputation for having a character for truthfulness or untruthfulness, or by testimony in the form of an opinion about that character. But evidence of truthful character is admissible only after the witness's character for truthfulness has been attacked.

(b) **Specific Instances of Conduct.** Except for a criminal conviction under Rule 609, extrinsic evidence is not admissible to prove specific instances of a witness's conduct in order to attack or support the witness's character for truthfulness. But the court may, on cross-examination, allow them to be inquired into if they are probative of the character for truthfulness or untruthfulness of:

(1) the witness; or

(2) another witness whose character the witness being cross-examined has testified about.

By testifying on another matter, a witness does not waive any privilege against self-incrimination for testimony that relates only to the witness's character for truthfulness.

Rule 609. Impeachment by Evidence of a Criminal Conviction

(a) **In General.** The following rules apply to attacking a witness's character for truthfulness by evidence of a criminal conviction:

(1) for a crime that, in the convicting jurisdiction, was punishable by death or by imprisonment for more than one year, the evidence:

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(A) must be admitted, subject to Rule 403, in a civil case or in a criminal case in which the witness is not a defendant; and

(B) must be admitted in a criminal case in which the witness is a defendant, if the probative value of the evidence outweighs its prejudicial effect to that defendant; and

(2) for any crime regardless of the punishment, the evidence must be admitted if the court can readily determine that establishing the elements of the crime required proving — or the witness's admitting — a dishonest act or false statement.

(b) **Limit on Using the Evidence After 10 Years.** This subdivision (b) applies if more than 10 years have passed since the witness's conviction or release from confinement for it, whichever is later. Evidence of the conviction is admissible only if its probative value, supported by specific facts and circumstances, substantially outweighs its prejudicial effect.

(c) **Effect of a Pardon, Annulment, or Certificate of Rehabilitation.** Evidence of a conviction is not admissible if:

(1) the conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding that the person has been rehabilitated, and the person has not been convicted of a later crime punishable by death or by imprisonment for more than one year; or

(2) the conviction has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence.

(d) **Juvenile Adjudications.** Evidence of a juvenile adjudication is admissible under this rule only if:

(1) it is offered in a criminal case;

(2) the adjudication was of a witness other than the defendant;

(3) an adult's conviction for that offense would be admissible to attack the adult's credibility; and

(4) admitting the evidence is necessary to fairly determine guilt or innocence.

(e) **Pendency of an Appeal.** A conviction that satisfies this rule is admissible even if an appeal is pending. Evidence of the pendency is also admissible.

Rule 610. Religious Beliefs or Opinions

Evidence of a witness's religious beliefs or opinions is not admissible to attack or support the witness's credibility.

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Rule 611. Mode and Order of Interrogation and Presentation

(a) **Control by the Court; Purposes.** The court should exercise reasonable control over the mode and order of examining witnesses and presenting evidence so as to:

(1) make those procedures effective for determining the truth;

(2) avoid wasting time; and

(3) protect witnesses from harassment or undue embarrassment.

(b) **Scope of cross examination.** The scope of the 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 and/or exhibits, **including** all reasonable inferences that can be drawn from those facts and matters, and may inquire into any omissions from the witness statement and/or exhibits that are otherwise material and admissible.

(c) **Leading Questions.** Leading questions should not be used on direct examination except as necessary to develop the witness's testimony. Ordinarily, the court should allow leading questions:

(1) on cross-examination; and

(2) when a party calls a hostile witness, an adverse party, or a witness identified with an adverse party.

Rule 612. Writing Used to Refresh a Witness's Memory

(a) **Scope.** This rule gives an adverse party certain options when a witness uses a writing to refresh memory:

(1) while testifying; or

(2) before testifying, if the court decides that justice requires the party to have those options.

(b) **Adverse Party's Options.** An adverse party is entitled to have the writing produced at the hearing, to inspect it, to cross-examine the witness about it, and to introduce in evidence any portion that relates to the witness's testimony.

Rule 613. Witness's Prior Statement

(a) Showing or Disclosing the Statement During Examination. When examining a witness about the witness's prior statement, a party need not show it or disclose its contents to the witness. But the party must, on request, show it or disclose its contents to an adverse party's attorney.

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(b) Extrinsic Evidence of a Prior Inconsistent Statement. Extrinsic evidence of a witness's prior inconsistent statement is admissible only if the witness is given an opportunity to explain or deny the statement and an adverse party is given an opportunity to examine the witness about it, or if justice so requires. This subdivision (b) does not apply to an opposing party's statement under Rule 801(d)(2).

ARTICLE VII. OPINIONS AND EXPERT TESTIMONY

Rule 701. Opinion Testimony by Lay Witness

If a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is:

(a) rationally based on the witness's perception;

(b) helpful to clearly understanding the witness's testimony or to determining a fact in issue; and

(c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702.

Rule 702. Testimony by Experts

A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if:

(a) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue; and

(b) the testimony is based on sufficient facts or data.

Rule 703. Bases of an Expert's Opinion Testimony

An expert may base an opinion on facts or data in the case that the expert has been made aware of or personally observed. If experts in the particular field would reasonably rely on those kinds of facts or data in forming an opinion on the subject, they need not be admissible for the opinion to be admitted. But if the facts or data would otherwise be inadmissible, the proponent of the opinion may disclose them to the jury only if their probative value in helping the jury evaluate the opinion substantially outweighs their prejudicial effect.

Rule 704. Opinion on Ultimate Issue

(a) **In General — Not Automatically Objectionable.** An opinion is not objectionable just because it embraces an ultimate issue.

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(b) **Exception.** In a criminal case, an expert witness must not state an opinion about whether the defendant did or did not have a mental state or condition that constitutes an element of the crime charged or of a defense. Those matters are for the trier of fact alone.

Rule 705. Disclosing the Facts or Data Underlying An Expert's Opinion

Unless the court orders otherwise, an expert may state an opinion — and give the reasons for it — without first testifying to the underlying facts or data. But the expert may be required to disclose those facts or data on cross-examination.

ARTICLE VIII. HEARSAY

Rule 801. Definitions

The following definitions apply under this article:

(a) **Statement.** "Statement" means a person's oral assertion, written assertion, or nonverbal conduct, if the person intended it as an assertion.

(b) **Declarant.** "Declarant" means the person who made the statement.

(c) **Hearsay.** "Hearsay" means a statement that:

(1) the declarant does not make while testifying at the current trial or hearing; and

(2) a party offers in evidence to prove the truth of the matter asserted in the statement.

(d) **Statements That Are Not Hearsay.** A statement that meets the following conditions is not hearsay:

(1) **A Declarant-Witness's Prior Statement.** The declarant testifies and is subject to cross-examination about a prior statement, and the statement:

(A) is inconsistent with the declarant's testimony and was given under penalty of perjury at a trial, hearing, or other proceeding or in a deposition;

(B) is consistent with the declarant's testimony and is offered:

(i) to rebut an express or implied charge that the declarant recently fabricated it or acted from a recent improper influence or motive in so testifying; or

(ii) to rehabilitate the declarant's credibility as a witness when attacked on another ground; or

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(C) identifies a person as someone the declarant perceived earlier.

(2) **An Opposing Party's Statement.** The statement is offered against an opposing party and:

(A) was made by the party in an individual or representative capacity;

(B) is one the party manifested that it adopted or believed to be true;

(C) was made by a person whom the party authorized to make a statement on the subject;

(D) was made by the party's agent or employee on a matter within the scope of that relationship and while it existed; or

(E) was made by the party's coconspirator during and in furtherance of the conspiracy.

The statement must be considered but does not by itself establish the declarant's authority under (C); the existence or scope of the relationship under (D); or the existence of the conspiracy or participation in it under (E).

Rule 802. Hearsay Rule

Hearsay is not admissible except as provided by these Rules.

Rule 803. Exceptions to the Rule Against Hearsay – Regardless of Whether the Declarant is Available as a Witness

The following are not excluded by the hearsay rule, regardless of whether the declarant is available as a witness:

(1) **Present Sense Impression.** A statement describing or explaining an event or condition, made while or immediately after the declarant perceived it.

(2) **Excited Utterance.** A statement relating to a startling event or condition, made while the declarant was under the stress of excitement that it caused.

(3) **Then-Existing Mental, Emotional, or Physical Condition.** A statement of the declarant's then-existing state of mind (such as motive, intent, or plan) or emotional, sensory, or physical condition (such as mental feeling, pain, or bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the validity or terms of the declarant's will.

(4) **Statement Made for Medical Diagnosis or Treatment.** A statement that:

(a) is made for — and is reasonably pertinent to — medical diagnosis or treatment; and

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(b) describes medical history; past or present symptoms or sensations; their inception; or their general cause.

(5) **Recorded Recollection.** A record that:

(a) is on a matter the witness once knew about but now cannot recall well enough to testify fully and accurately;

(b) was made or adopted by the witness when the matter was fresh in the witness's memory; and

(c) accurately reflects the witness's knowledge.

If admitted, the record may be read into evidence but may be received as an exhibit only if offered by an adverse party.

(6) **Records of Regularly Conducted Activity.** A record of an act, event, condition, opinion, or diagnosis if:

(a) the record was made at or near the time by – or from information transmitted by – someone with knowledge;

(b) the record was kept in the course of a regularly conducted activity of a business, organization, occupation, or calling, whether or not for profit;

(c) making the record was a regular practice of that activity;

(d) all these conditions are shown by the testimony of the custodian or another qualified witness; and

(e) the opponent does not show that the source of information or the method or circumstances of preparation indicate a lack of trustworthiness

(7) **Absence of Regularly Conducted Activity.**

Evidence that a matter is not included in a record described in paragraph (6) if:

(a) the evidence is admitted to prove that the matter did not occur or exist;

(b) a record was regularly kept for a matter of that kind; and

(c) the opponent does not show that the possible source of information or other indicated a lack of trustworthiness.

(8) **Public Records.** A record or statement of a public office if:

(a) it sets out:

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(i) the office's activities;

(ii) a matter observed while under a legal duty to report, but not including, in a criminal case, a matter observed by law enforcement personnel; or

(iii) in a civil case or against the government in a criminal case, factual findings from a legally authorized investigation; and

(b) the opponent does not show that the source of information or other circumstances indicate a lack of trustworthiness.

(10) **Absence of a Public Record.** Testimony that a diligent search failed to disclose a public record or statement if the testimony or certification is admitted to prove that:

(a) the record or statement does not exist; or

(b) a matter did not occur or exist, if a public office regularly kept a record or statement for a matter of that kind.

(16) **Statements in Ancient Documents.** A statement in a document that was prepared before January 1, 1998, and whose authenticity is established.

(18) **Statements in Learned Treatises, Periodicals, or Pamphlets.** A statement contained in a treatise, periodical, or pamphlet if:

(a) the statement is called to the attention of an expert witness on cross-examination or relied on by the expert on direct examination; and

(b) the publication is established as a reliable authority by the expert's admission or testimony, by another expert's testimony, or by judicial notice.

If admitted, the statement may be read into evidence but not received as an exhibit.

(21) **Reputation Concerning Character.** A reputation among a person's associates or in the community concerning the person's character.

(22) **Judgment of a Previous Conviction.** Evidence of a final judgment of conviction if:

(a) the judgment was entered after a trial or guilty plea, but not a nolo contendere plea;

(b) the conviction was for a crime punishable by death or by imprisonment for more than a year;

(c) the evidence is admitted to prove any fact essential to the judgment; and

(d) when offered by the prosecutor in a criminal case for a purpose other than impeachment, the judgment was against the defendant.

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The pendency of an appeal may be shown but does not affect admissibility.

Rule 804. Hearsay Exceptions; Declarant Unavailable

(a) **Criteria for Being Unavailable.** A declarant is considered to be unavailable as a witness if the declarant:

(1) is exempted from testifying about the subject matter of the declarant's statement because the court rules that a privilege applies;

(2) refuses to testify about the subject matter despite a court order to do so;

(3) testifies to not remembering the subject matter;

(4) cannot be present or testify at the trial or hearing because of death or a then-existing infirmity, physical illness, or mental illness; or

(5) is absent from the trial or hearing and the statement's proponent has not been able, by process or other reasonable means, to procure:

(A) the declarant's attendance, in the case of a hearsay exception under Rule 804(b)(1) or (6); or

(B) the declarant's attendance or testimony, in the case of a hearsay exception under Rule 804(b)(2), (3), or (4).

But this subdivision (a) does not apply if the statement's proponent procured or wrongfully caused the declarant's unavailability as a witness in order to prevent the declarant from attending or testifying.

(b) **The Exceptions.** The following are not excluded by the rule against hearsay if the declarant is unavailable as a witness:

(1) **Former Testimony.** Testimony that:

(A) was given as a witness at a trial, hearing, or lawful deposition, whether given during the current proceeding or a different one; and

(B) is now offered against a party who had — or, in a civil case, whose predecessor in interest had — an opportunity and similar motive to develop it by direct, cross-, or redirect examination.

(2) **Statement Under the Belief of Imminent Death.** In a prosecution for homicide or in a civil case, a statement that the declarant, while believing the declarant's death to be imminent, made about its cause or circumstances.

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(3) **Statement Against Interest.** A statement that:

(A) a reasonable person in the declarant's position would have made only if the person believed it to be true because, when made, it was so contrary to the declarant's proprietary or pecuniary interest or had so great a tendency to invalidate the declarant's claim against someone else or to expose the declarant to civil or criminal liability; and

(B) is supported by corroborating circumstances that clearly indicate its trustworthiness, if it is offered in a criminal case as one that tends to expose the declarant to criminal liability.

(4) **Statement of Personal or Family History.** A statement about:

a. the declarant's own birth, adoption, legitimacy, ancestry, marriage, divorce, relationship by blood, adoption, or marriage, or similar facts of personal or family history, even though the declarant had no way of acquiring personal knowledge about that fact; or

b. another person concerning any of these facts, as well as death, if the declarant was related to the person by blood, adoption, or marriage or was so intimately associated with the person's family that the declarant's information is likely to be accurate.

(5) Not Applicable

(6) **Statement Offered Against a Party That Wrongfully Caused the Declarant's Unavailability.** A statement offered against a party that wrongfully caused — or acquiesced in wrongfully causing — the declarant's unavailability as a witness, and did so intending that result.

Rule 805. Hearsay within Hearsay

Hearsay included within hearsay is not excluded by the rule against hearsay if each part of the combined statements conforms with an exception to the rule.

Rule 806. Attacking and Supporting the Declarant's Credibility

When a hearsay statement — or a statement described in Rule 801(d)(2)(C), (D), or (E) — has been admitted in evidence, the declarant's credibility may be attacked, and then supported, by any evidence that would be admissible for those purposes if the declarant had testified as a witness. The court may admit evidence of the declarant's inconsistent statement or conduct, regardless of when it occurred or whether the declarant had an opportunity to explain or deny it. If the party against whom the statement was admitted calls the declarant as a witness, the party may examine the declarant on the statement as if on cross-examination.

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Rule 807. Residual Exception

Under the following conditions, a hearsay statement is not excluded by the rule against hearsay even if the statement is not admissible under a hearsay exception in Rule 803 or 804:

(1) the statement is supported by sufficient guarantees of trustworthiness–after considering the totality of circumstances under which it was made and evidence, if any, corroborating the statement; and

(2) it is more probative on the point for which it is offered than any other evidence that the proponent can obtain through reasonable efforts.

ARTICLE IX. AUTHENTICATION AND IDENTIFICATION (NOT APPLICABLE)

ARTICLE X. CONTENTS OF WRITING, RECORDINGS AND PHOTOGRAPHS (NOT APPLICABLE)

ARTICLE XI. OTHER

Rule 1103. Title

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

Host states have the discretion to eliminate rules that do not pertain to the trial at hand.

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