American Bar Association
Law Student Division

2018-19

NAAC
National Appellate Advocacy Competition

SELECT COMPETITION

RULES
FOR ORAL ARGUMENT JUDGES

As of November 2018
Article 1—Introduction

The ABA Law Student Division created the National Appellate Advocacy Competition (or NAAC) in 1978 to emphasize the development of oral advocacy skills through a realistic appellate advocacy experience. Competitors participate in a hypothetical appeal to the United States Supreme Court. The competitors must write a brief as either Petitioner or Respondent and then argue the case in front of the mock court. The lawyers and judges who serve as judges are required to read a bench memo and the Problem in preparation for the oral arguments.

Article 2—Administration

1. The ABA Law Student Division and the NAAC Subcommittee conduct the NAAC. The NAAC Subcommittee directly administers the competition at both the regional and national levels. The Law Student Division’s Chair appoints members of the NAAC Subcommittee. Our webpage can be found at https://abaforlawstudents.com/events/law-student-competitions/practical-skills-competitions/naac-moot-court/.

2. Courthouses. To provide a realistic appellate experience, the ABA Law Student Division holds the regional and National Finals in state and federal courthouses. As a condition of using the courthouses, the Division agrees not to disturb the placement of furniture, equipment, and electronics. Therefore, only the competition administrators will move furniture or turn off or unplug electrical/electronic equipment including microphones and video monitors.

3. Furniture and Equipment. By competing, team members affirm that they will not move any furniture, including the podium, or disturb any equipment, including, but not limited to, monitors, microphones, and electrical/electronic cords, in any courtrooms used for the competition, even if a judge asks the competitor to move it. Violation of this Article shall result in the imposition of a significant penalty, up to and including disqualification.

4. Participants and Observers. Many courthouses require the ABA Law Student Division to provide a list of people associated with the competition. The Division obtains the competitors’ names from the Team Member Reporting Form. Teams must report the names of their NAAC coach(es) or advisors, bailiff(s), and any guests, using an online form developed for this purpose. The online Participant and Observers Form will be posted to the NAAC Home Page in January.
Article 6—Competition Problem and Copyright

1. The NAAC Problem shall be released on the date listed online; but only to teams for which a school has identified by name each of the students who are members of the teams. Otherwise, the Problem will be released to teams once the school has identified by name each of the students who are members of a registered team, provided that such members are designated within 14 days after the Problem is released.

2. The NAAC Subcommittee shall entertain requests for clarifications for 15 days after release of the Problem. Each request for clarification must be submitted via the form provided online. Any clarifications will be posted to the NAAC webpage (see Article 2(1)) after the deadline.

3. The NAAC Subcommittee is responsible for developing the Problem.

4. All ABA Law Student Division Competition problems (also known as case files, scenarios, fact patterns, and records) are copyright protected under United States copyright laws. Problems may only be used by the registered competitors during the year of the competition. Audio, visual, or written versions of these problems may NOT be posted and/or shared online or digitally distributed in any manner without express written permission from the ABA Law Student Division. Failure to comply with this requirement may result in immediate disqualification from the competition or may subject you to civil and/or criminal liability under 17 U.S.C. § 100 et seq.

5. The persons and events depicted in the Problem are purely fictional, and the Problem is prepared solely for the educational exercise being conducted in the Competition. Any resemblance to actual persons, living or deceased, is unintentional and purely coincidental.

Article 9—Competition Procedures for Oral Arguments and Briefs

1. Oral Arguments
   a. Two team members will argue in each round of oral argument. A team may vary which members will argue from round to round. Only those two people arguing may sit at counsel table.
   b. Oral argument is limited to a total of 30 minutes per team.
      1) Although a team may divide its 30 minutes as it chooses, no team may allocate more than 17 minutes to one advocate, including rebuttal.
      2) The petitioner may reserve up to a maximum of 5 minutes for rebuttal. Only one advocate may argue rebuttal. The petitioner need not identify which team member will rebut prior to the round.
      3) The judges may, in their sole discretion, extend any speaker’s time.
Teams are evaluated and scored based on the quality of their presentations and not on the merits of the side they represent.

1. **Brief Scoring.** Each brief grader will evaluate the briefs based upon a 100-point scale. Knowledge of the law and persuasiveness will be the primary standards in grading, but form, style, and appearance will also be considered. Grading will be anonymous, with each brief identified only by its team number. The Official Brief Ballot can be found in Appendix C to these Rules.

   Brief graders are required to grade to a 75 point median.

2. **Reduced Brief Score**

   a. At the regional level, the reduced brief score will be determined by dropping the highest and lowest scores, averaging the remaining three scores (i.e., the average score), and dividing that average by three. Any brief penalties will be deducted from the average score. See Appendix D for a sample brief results document.

   b. At the national level, the reduced brief score will be determined by dropping the highest and lowest scores, averaging the remaining three scores, and dividing that average by three. Any brief penalties will be deducted from the average score.

3. **Oral Argument Scoring.** Each judge will evaluate each advocate upon a 100-point scale, considering substantive content of argument, knowledge of the record, extemporaneous ability, courtroom demeanor, and professionalism. A sample Oral Argument Ballot can be found in Appendix E to these Rules.

   a. If a judge scores below the range in any given criteria or fails to provide a score for any given criteria, and the bailiffs return to the scoring room without correcting the error, the advocate will receive only the number of points given by the judge, or in the case of no score, a zero, for that particular criterion.

   b. If the judge scores above the range in any given criteria, and the bailiffs return to the scoring room without correcting the error, the advocate will receive half the number of points given by the judge for that particular criterion.

   c. If the sum of the scores assigned for each criteria differs from the total score assigned by a judge, the scores for each criteria control.

   d. A team’s margin of victory is calculated by subtracting the losing team’s point total from the winning team’s point total.

   e. If a tie exists after the oral argument and brief scores are considered, the team winning the oral argument portion will be declared the winner of the
round. In this situation, the margin of victory for the winning team will be zero, and the margin of loss for the losing team will be zero. Unless otherwise provided, in all rounds where the brief score is not initially counted, if a tie exists after ballots and oral argument scores are considered, the team with the highest brief score shall be declared the winner.

f. If a team forfeits an assigned round, the team’s scheduled opponent (the opponent) will be the winner of that round and their margin of victory will be one point, unless the opponent’s reduced brief score is more than one point higher than the forfeiting team’s reduced brief score, in which case the margin of victory for the opponent shall be the difference between the reduced brief scores.

g. In rounds 1, 2, and 3 of the regional competition, the team’s score will be computed by weighing the oral argument two-thirds (66.67%) and the brief one-third (33.33%). In rounds 4 and 5 of the regional competition, the winner will be the team that receives the higher argument score on a majority of ballots submitted by the oral argument judges. If neither team receives a majority of ballots, the winner will be the team with the highest total argument score.

h. In rounds 1 and 2 of the National Finals, the team’s score will be computed by weighing the oral argument two-thirds (66.67%) and the brief one-third (33.33%). In the octofinals, quarterfinals, and semifinal rounds of the National Finals, the winner will be the team that receives the higher oral argument score on a majority of ballots. If neither team receives a majority of ballots, the winner will be the team with the higher total argument score.

i. In the National Championship Round, a simple majority of the oral argument judges determines the National Finals winner. The ABA Law Student Division will seek to ensure that an odd-numbered judge panel sits for the National Championship Round. If for any reason an even-numbered judge panel sits for the National Championship Round, the NAAC Subcommittee will randomly select one judge’s ballot prior to the beginning of the round to be excluded. In the event of a tie vote, the randomly selected judge’s ballot will be excluded.

**Article 11—Judges’ Feedback**

Immediately after completing the oral argument ballot, the judges provide the advocates with oral feedback. Up to 30 minutes is available for this feedback. Both teams should be in the room at the same time.

Judges will be encouraged to provide constructive feedback to help promote an inclusive, educational, and positive experience for all competitors and coaches. See the Instructions for Judges posted on the NAAC Judges webpage for the full instructions provided to the judges.
Article 13—Bailiffs

1. Schools must provide a bailiff for each team in each of their rounds. The bailiff may be anyone the team chooses; however, an advocate arguing in the round may not serve as bailiff. Schools entering two teams may not rotate team members as bailiffs between teams. During the round, a Bailiff shall not communicate with other members of the bailiff’s team after the bailiff has made contact with the judges for the round. A team failing to provide a bailiff in the courtroom during the round waives the right to tabulate scores for the round, and to protest ballot or tabulation errors.

2. Bailiffs are responsible for

   a. Picking up the judges from the judges orientation room 15 minutes prior to the start of the first heat of each round; or meeting the judges outside the courtroom (or in the courtroom) before the second heat of each round;

   b. Distributing the ballots to judges before the round;

   c. Serving as timekeepers for the round and holding up cards to indicate the amount of time remaining in each argument;

   d. Standing and holding up the “stop” sign at the expiration of the advocate’s time;

   e. Picking up the ballots after judges have voted and, in the presence of the judges, jointly verifying with the other team’s bailiff that the scores are within the limits;

   f. Taking the ballots to the scoring room and, jointly with the other team’s bailiff, verifying and correcting the judge’s mathematical calculations to ensure accuracy, and completing the tally sheet;

   g. Bringing the team’s brief score sheet to the scoring room when scoring EACH round and presenting it to the other team’s bailiff when completing the tally sheet;

   h. Making a photographic image of the tally sheets and ballots;

   i. Returning the ballots to the NAAC Subcommittee in the round folder;

   j. Reporting the results to the bailiff’s team members; and

   k. Providing a stopwatch and **calculator** for their team. A mobile phone may be used solely for the purpose of keeping time and tabulating the round and must be kept in airplane mode during the round.

3. The Petitioner’s Bailiff will call the Court to order.
4. The Petitioner’s Bailiff will serve as timekeeper when the Petitioner is speaking. The Respondent’s Bailiff will serve as timekeeper when the Respondent is speaking.

5. After the ballots are reviewed, tabulated, and signed by the bailiffs and delivered to the NAAC Subcommittee, the NAAC Subcommittee will not consider any protest regarding mathematical errors in a judge’s ballot or tabulation errors by the bailiffs. However, the NAAC Subcommittee, within its discretion, may correct a mistake to prevent a team from inadvertently benefitting from such an error.

6. The NAAC Subcommittee collects and tabulates the ballots and announces the Round 5 winners at the regional competition and at Round 4 of the National Finals. However, the results will not be final until the teams’ bailiffs have had the opportunity to check the scores.

7. No coach will be allowed in the bailiffs’ scoring room unless that coach has served as a bailiff in the preceding round.

8. A sample bailiff’s instruction sheet, tally sheet, and worksheet are in Appendix F and Appendix G to these Rules.

Article 21—Assistance

Because the purpose of this competition is educational, a team may receive limited assistance in the preparation of its brief. Permissible assistance is limited to discussion of the issues. No one other than a student team member may review or comment upon a draft of the brief or otherwise participate in developing a team’s brief until it is electronically filed.

Filing the brief, as required by Article 10, constitutes certification that the team has not received impermissible assistance in preparation of the team’s brief and has complied with this Rule.

After the brief is filed, the NAAC coach or advisor can work with, assist, and direct the students; critique mock preparations; arrange for the students to consult with others for assistance; and provide any other educational assistance.

During oral argument, a speaker may receive assistance only from his or her teammate who is seated at counsel table.

Once a team’s bailiff has made contact with the competition judges for a round, the bailiff shall not communicate with members of the team arguing that round.

During the competition, NAAC coaches and advisors may advise, communicate with, and observe their teams only as provided in these Rules.

Article 25—Professional Conduct

The ABA Model Rules of Professional Conduct govern the conduct of all participants including students, NAAC coaches or advisors, bailiffs, and observers. Violations are subject to penalties, including temporary or permanent suspension of individuals or law
schools from participating in the competition. In addition, egregious violations may be reported to the law school’s dean. Everyone who participates is expected to act professionally at all competition-related events and on social media.