

# American Bar Association Law Student Division

## Arbitration Competition

### Instructions for Arbitrator Judges

Thank you so much for being an Arbitrator Judge, because we could not have a successful competition without you! Below is an overview of the competition and what your role will be:

1. **ARBITRATION PANEL:** The arbitration panel should consist of 3 members, with 1 acting as Chair to make evidentiary and other decisions during the hearing. If a panel has fewer than 3 members, 1 member should still be appointed Chair. Decisions of the Chair are final.
2. **HEAD-TO-HEAD:** You will watch two teams compete head-to-head in an arbitration hearing. Teams have prepared both sides of the case; however, they have been assigned which side they will represent in this round. You are to evaluate the teams on their advocacy skills and not on the merits of the case.
3. **TEAM COMPOSITION:** Teams are comprised of 4 students, 2 who will act as attorneys, and 2 as witnesses. In a rare situation, a team may only have 3 members, with 2 members acting as attorneys and 1 member playing both witnesses.
4. **TEAM IDENTITY:** Teams will be assigned a neutral designation so you do not know what law school they attend. Please do not ask the students where they are from. However, if you recognize any law student, notify the administrator **before** the hearing begins so that you can be moved to another hearing room.
5. **TEAM SIDES:** Claimants will sit to the judges' left and Respondents to the judges' right.
6. **FORMAT OF ROUND:** The round will last for 165 minutes:
  - 130 minutes for the hearing (60 minutes for each side to present its case plus a 10-minute break before summation),
  - 15 minutes for the judges to independently complete their Evaluation Forms and Comment Sheets with the teams, coaches, and observers out of the room, and
  - 20 minutes of judges' feedback and critique with both teams in the room as the same time (with the Panel giving each team about 10 minutes of feedback).

Teams may use their 60 minutes in any way they wish and are responsible for keeping track of their own time; however, the Arbitration Chair should make sure that teams do not exceed their 60 minutes. One Panel Member should be appointed Timekeeper.

7. **HEARING PROCEDURES/RULES:** The specific competition procedures regarding the hearing, time, proceedings, evidence, exhibits, and grading are contained in Rule 8 of the Arbitration Competition Rules. If you do not have a copy, ask for one. However, here is an overview of some of those rules:
  - a. The Chair shall swear in or affirm all witnesses at the beginning of the hearing before the openings: “Do you swear that your testimony shall be the truth?”
  - b. **Lawyers will sit during all phases of the hearings and need not stand for any objection or presentation.** However, at the Chair’s discretion, lawyers and witnesses may stand for an exhibit presentation or during opening and summation.
  - c. Panel Members may ask appropriate questions of the student lawyers only during opening and summation, but may not ask the witnesses any questions during their examinations.
  - d. The student attorney who is responsible to direct or cross-examine a witness may make appropriate objections. **Keeping in mind that this is an arbitration and not a civil trial, you are guided, but not bound by, the Federal Rules of Evidence.**
  - e. Objections that the evidence presented is not contained in the case file or that a team is violating a competition rule should rarely be sustained and only if the violation is substantial and there is no other remedy for the claimed violation. Opposing teams may impeach a witness if the witness introduces facts beyond her/his statement.
  - f. Although teams are not permitted to use technology to assist in the presentation of their case, teams may bring and use visual aids, and if so, the team is responsible for bringing any exhibit or visual aid, easel, poster board, whiteboard, or flipchart it wishes to use during the hearing. The Host School may or may not provide any of this equipment. Rule 7.I.4-5.
8. **EVALUATION FORMS AND COMMENT SHEETS:** Once the 130 minute hearing is complete, teams should be excused from the room so that you can independently complete your Evaluation Forms and Comment Sheets. Please make sure the team that you thought should win the round has the higher score. No ties or half points are allowed. The Evaluation Forms will be collected by the Host Administrator **before** you bring the teams back for their critique. During your critique, please do not divulge which team received the higher score.

In addition to promoting the development of practical lawyering skills, the ABA seeks to promote an inclusive, educational, and positive experience for all competitors and coaches. The ABA appreciates your effort at providing measured, balanced, respectful, and constructive feedback that focuses on the competitor’s negotiation skills.

Please refrain from making positive or negative comments on items that do not directly relate to the skills that the competition is seeking to promote. Such as:

- Comments on a competitor's appearance (including clothing, hair, and facial appearance)
  - Comments on a competitor's accent, disability, or speech impediment
  - Comments on religious clothing or jewelry
  - Comments related to gender, gender identity, or gender expression
  - Comments on a competitor's name or surname

You may keep your Comment Sheets with you while you provide the teams feedback; however, please do not give the teams your Comment Sheets as they will be picked up by the Host Administrator before you leave and distributed to the teams later. Please provide constructive criticism and feedback to the teams on these Comment Sheets because they are the only written feedback they will receive.

Again, thank you for agreeing to be an Arbitration Judge during this competition, because we couldn't do it without you!