

# ***Coaches, Teachers, and Attorneys***

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## **Guidelines for Teacher Advisors/Coaches and Attorney Coaches**

*(Adapted from materials developed by the Center for Civic Values, Gene Franchini High School Mock Trial Program in New Mexico)*

Teachers and attorneys will work together to make the most of their strengths and time. However, teachers generally leave the legal analysis of the case, rules of evidence and general legal knowledge to the attorney coaches. Call in other attorneys, coaches and community members to give students fresh perspective and expertise as needed.

Helpful resources, especially to those new to mock trial, include "May It Please the Court," a copy of which is in every county library. An extensive teaching guide is in the "Resources" section of this Web site. Also, some state high school mock trial programs have useful videos on their Web sites – for instance, Minnesota and Oklahoma.

### **Attorneys:**

*As a mentor and a role model, you are critical to the success of your team. You provide the legal knowledge necessary to help students prepare a mock trial presentation for competition.*

Also important is your ability to impart to the students that we are a society governed by the rule of law. By the end of the mock trial season, we hope they will have a keen understanding and an abiding respect for the law and the legal system.

Naturally, students will look to you for guidance in both their performance and their courtroom decorum. As a result, it is critical that you demonstrate professional and ethical behavior. To point students in the right direction and give them the benefit of your experience, the students and teachers will develop a better understanding of the case and learn more from the experience if the attorney-advisors do not dominate the preparation phase of the competition. To achieve the educational goals of the mock trial program, the preparation phase of the contest must be a cooperative effort of students, teachers and attorney coaches. It's important to avoid even the appearance of "talking down" to students and/or stifling discussion through the use of "legalese."

Instruction must include basic trial procedures, including strategies for developing a theory of the case, creating an opening statement, preparing a closing argument and conducting direct and cross-examinations of witnesses within the framework of the Rules of the Wyoming High School

### **Here is a checklist for attorney coaches:**

First, learn the case (sometimes called the "problem"), the rules of competition and procedure and the rules of evidence.

1. Develop a case strategy. The entire team should work together on this process. Your role is to be a consultant to the students, not a director or decision maker for the team. Consider the following when developing team strategy
  - What are the strengths of your case? These are the points and issues you will want to emphasize.
  - What are the weaknesses of your case? These are the points and issues for which you must prepare a counter-argument.
  - Are your strategies integrated? That is, are the witnesses and attorneys all promoting the same "theme" and "theory?" You need to work as a team during the course of the trial, and each team members must always be certain about where you are headed.
  - Where are the possible holes in your strategy? You don't want to be confronted with surprises at trial, and you must be prepared to cope with the unexpected.
  - Is there a particular key witness whom you will want to exploit during cross-examination?
  - Will we need to use all our time? If your strategy has been achieved before you have used all your allotted time that is fine.
  - While it is not necessary for mock trial purposes, you may wish to research cases cited as references in order to better understand the trial.
  - Practice the trial in full, including direct and cross-examinations, in front of your attorney coach or another local attorney or judge who is willing to sit in and offer suggestions. Your team should run its case several times before competition.
  
2. Other considerations when preparing your case:
  - In which order to call your witnesses
  - Physical position in the courtroom
  - What information should be contained in your opening statement and closing argument (Again, remember that the coaches may give the students ideas but should not write the statements for them.)
  - What questions to ask on direct and cross-examination of each of the six witnesses
  - How to avoid asking objectionable questions and what to do if one of your questions is objected to
  - How and when to object to the opposition's questions
  - How to introduce exhibits and offer them into evidence
  - How to exhibit proper courtroom decorum and good sportsmanship.

### **Teachers:**

*The teacher advisor's role as mentor and a leader is critical to the success of the team.*

General responsibilities include assisting team members with the following:

### **1. Education and Sportsmanship**

A primary goal of the mock trial program is learning about the law and the legal system, as well as substantive issues of the case. Healthy competition helps achieve this goal; however, teacher advisors must remember their responsibility to keep the competitive spirit at a *reasonable level*. The reality of the adversary system is one party wins and the other loses, and teacher advisors must prepare teams to accept *graciously* either outcome in a mature manner. Teacher advisors can help prepare students for either outcome by placing the highest value on excellent preparation and presentation, rather than on winning or losing the trial.

### **2. Rules of the Competition and Procedure**

Please ensure you and your team read the mock trial competition and evidence rules thoroughly. Help your team members learn and adhere to them, as well as to the Code of Ethical Conduct.

### **3. Role Assignments**

Team members should select roles based on their interests and abilities, not on the basis of any gender or cultural types that might be drawn from the characterizations in the fact pattern. All witnesses, unless otherwise noted, are gender neutral and may be played by males or females.

### **4. Team Preparation**

Teams must learn and prepare to present both sides of the case. It helps them tremendously if you can conduct practice mock trials (scrimmages) before state competition. Alternatively, have your teams run their case in front of non-coaching attorneys for their feedback.

## **Working With an Attorney Coach**

Your team may work with one or several attorneys. Possible sources include parents or relatives of students, alumni, acquaintances, local law firms, county attorney's office, school board members or local judges. Or contact WHSMT, and we will work with the Wyoming State Bar to find local attorneys to help your team. As coaches, attorneys should advise students but should not author any portion of the team's trial materials.

## **After You Have Identified Your Attorney Coach**

- Provide attorney coaches with mock trial materials, including the case and rules of competition, evidence and procedure.
- Meet with students to arrange meeting times and places. Discuss the case and the attorney's suggestions regarding strategy and arguments for both sides.

## **Initial work with the team**

Teacher advisors may feel comfortable taking on this stage of working with students, or they may bring in the attorney coaches at this time.

- Have the students learn the statement of facts and witness statements (in affidavits) as thoroughly as possible. You might try having the students quiz each other - one student looks at the facts and affidavits and asks the other student(s) questions; then reverse roles.
- Try brainstorming with students to elicit factual arguments for both the plaintiff/prosecution and the defense ( i.e., which facts support the plaintiff's/prosecution's case and which facts support the defendant's case?).
- Have students try to string facts together to make a logical assumption about the case.
- Have students read through the procedures for trial of civil/criminal cases, the simplified rules of evidence, and the mock trial rules. Discuss with the students and write down questions they have for your attorney coach.
- If you have time, familiarize students with the court system and civil or criminal procedure. They could observe a real trial in county or district court. Contact the clerk of district court in your county to find out when a trial is scheduled at the courthouse. These trials are open to the public.
- Consider asking a speech or drama teacher to observe your team in action and offer suggestions for improving the students' presentations. Student witnesses may need help taking on the character of the people they are portraying.

## **Coaches – Both Teachers and Attorneys:**

Below are suggestions how to sequence coaching sessions with students. students. students. students. You and the teacher advisor/coach should approach the tasks in whatever order you deem appropriate.

### **First Session**

1. Prior to meeting with the team, confirm the teacher advisor has distributed case materials among the team members, and they have read and are familiar with them.
2. At the first meeting, confirm the students understand the sequence of a trial, the steps in each sequence, the layout of the courtroom and the participants in a mock trial. If the team members are not clear on these concepts, review them prior to moving forward.
3. Discuss with the team Review the Federal Rules of Evidence (mock trial simplified version) included as a separate packet in the case materials. Ensure the team members know the hearsay rule and all its exceptions.

## Second Session

1. Examine and discuss the factual basis of the case, witnesses' testimony and the strengths and weaknesses of each side of the case. Remember, your team must prepare to present both sides. Key information might be listed on the blackboard as the discussion proceeds so that it can be referred to at some later time. Categorize facts: important, damaging, conflicting.
2. Discuss the law involved in the case and the burden of proof.
3. Put the students on the stand with notes and then have the attorney coach proceed with an example of direct and cross-examinations.
4. Determine the roles of the team members, establishing who will act as witnesses and attorneys. Since each team is required to represent both sides of the case during the competition, all roles in the case should be assigned and practiced.
5. Emphasize that team members should not memorize their roles since in a real trial they would have to play it by ear. Rather than memorizing their roles, students should concentrate on knowing all the facts of the case.

## Third Session

Go through the trial from beginning to end, ensuring all the following steps are covered.

1. Work with the student attorneys, concentrating on what should be covered in an opening statement and a closing argument. Remember that the role of the attorney coach is that of a consultant, not an author. Give the students ideas, but don't write statements for them. Ask other members of the team what they think should be included in the opening and closing.
2. Have witnesses called to the stand to be examined by student attorneys. Work with students to develop questioning techniques that will elicit testimony to support either side of the case. Have other team members make suggestions to both witnesses and attorneys.
3. Have attorneys practice *making* objections, and discuss both the style and substance of the objections thoroughly.
4. Have attorneys practice *responding* to objections. This is one of the most difficult skills for students to master, and it can only be achieved through knowing the rules inside and out.

## Subsequent Sessions

1. Conduct cross-examination and define possible areas where objections could occur; look for other areas that your team's attorneys might want to focus on during cross-examination; have all team members make suggestions.
2. Practice opening statements and closing arguments, how to lay a foundation for exhibits, what to do when the opposing team objects to your questions.
3. Discuss appropriate courtroom decorum and etiquette.

## Last Session Prior to Competition

1. Conduct a final run-through of the entire trial. Allow team members, coaches and the teacher advisor(s) to act as the presiding judges and the opposing team's attorneys.
2. Enlist the support of community members, especially attorneys or judges, to sit in and offer suggestions.
3. If you have enough alternate team members, or if your school is fielding two teams, have them scrimmage. Invite attorneys or other community members to "judge" this practice round and give the students constructive feedback.

As coaches help students learn the facts and legal issues of the case and master the rules of evidence and courtroom procedure, students will

be getting a broader education. Here is a checklist developed by the Georgia State Bar for attorney coaches:

- Provide a practical understanding of the way the American legal system functions, including citizen participation in that system.
- Further the understanding of the role of the Judicial Branch within our federal system of government and the concept of check and balances within that system.
- Promote and heighten appreciation for the principle of due process and equal justice for all.
- Further the understanding of professional responsibilities and/or the ethical obligations of lawyers.
- Further the understanding of the legal issues covered in case materials provided for the competition.

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