



NYU | LAW

MOOT COURT BOARD

NATIONAL IMMIGRATION LAW MOOT COURT COMPETITION RULES

Approved by the NYU Moot Court Board Executive on December 29, 2015

I. GENERAL RULES

RULE 100. COMPETITION MISSION

The purpose of this Competition is to help law students develop the art of appellate advocacy in the immigration context and expose law students to the immigrant experience as seen through legal practice.

Participants in any aspect of this Competition are expected to follow the letter and spirit of these Rules and to maintain the highest level of professionalism throughout the Competition.

RULE 101. DEFINITIONS

(a) *Organizer.* The National Immigration Law Competition (“ILC”) is operated and administered by the New York University School of Law Moot Court Board (“MCB”), a student journal at the New York University School of Law. The MCB is governed by its Executive Committee. All references to the MCB’s decisions should be taken to refer to the decisions of the Executive Committee.

(b) *Administrators.* The chief administrative officer of the ILC is the ILC Executive Editor (“ILC EE”), who may, unless expressly herein provided, or reversed by the MCB, interpret all parts of these Rules and make such determinations as are necessary or convenient for the fair, equitable, and efficient operation of the ILC.

(c) *Competition Website.* The MCB must operate a website for the ILC (“the ILC website”), which must contain the various dates, deadlines, and resources referred to in these Rules.

(d) *Immigration Bar*. All briefs and oral arguments should be judged, if at all possible, by members of the Immigration Bar. The “Immigration Bar” means admitted attorneys and legal experts who primarily concentrate their practice, research or teaching on immigration law or the immigrant experience.

(e) *Advisory Board*. There is an advisory board of NYU faculty and other members of the Immigration Bar (“the ILC Advisory Board”) whose functions include those described in these Rules.

RULE 102. APPLICATIONS TO COMPETE

(a) *Eligibility*. Each ABA-accredited law school may apply to enter either one or two teams composed of two or three students. All team members may write portions of the brief, but only two members, designated at the beginning of the competition, may participate in any oral arguments. Team members must be matriculated in a full or part-time JD, LLM, or equivalent program in the law school they represent. No team member may be admitted to the bar in any U.S. jurisdiction.

(b) *Application Process*. All teams qualified to compete must submit an application form no later than the deadline specified on the ILC website. If and only if the team is accepted, that team must pay a registration fee of \$500 via check or credit card within thirty (30) days of notice of acceptance. A team must be notified of acceptance or rejection not later than the time and date for notification specified on the ILC Website.

(c) *Evaluation Criteria*. In the event that more teams apply than can be accommodated in the competition, the MCB will select teams to compete on the basis of their school’s strength and interest in immigration law. No school may send a second team if another school is thereby excluded.

(d) *Substitution*. A team may substitute the members of their team, by writing to the ILC EE, as a matter of right until the brief service deadline. After that time, no substitution of members may occur except with the permission of the ILC EE on a showing of good cause.

RULE 103. WITHDRAWAL OF A COMPETING TEAM

(a) *Notice required to withdraw*. A team that wishes to withdraw should alert the ILC EE as soon as possible. Early notice helps us to ensure that other teams are not harmed by the withdrawing team’s departure. Failure to attend the competition without giving due notice to the ILC EE will

lead, at a minimum, to a formal request being lodged at the team's law school for disciplinary action against the students responsible.

(b) Rule 201(d)(e) apply in their entirety to teams that have withdrawn from the competition; withdrawn teams may NOT distribute the Record or any materials produced to anyone without the express written consent of the MCB.

(c) *Refunds*. Teams, having paid their registration fee, will not be given a refund of that at any time or under any circumstances except if the Competition is cancelled.

RULE 104. AMENDMENTS AND INTERPRETATION OF THE RULES

(a) *Additional Rules*. The MCB reserves the right to amend or modify these Rules as it deems necessary. Teams will be notified of any amendments or modifications in advance of the Competition.

(b) *Penalties*. The MCB reserves the right to assess such penalties for failure to comply with these rules as it deems reasonable and appropriate, including but not limited to disqualification from the Competition.

(c) *Interpretation of Rules*. The MCB interprets these rules at its absolute discretion. Requests for interpretation of these rules should be e-mailed to the MCB at mootcourt@nyu.edu as soon as the need for such an interpretation becomes apparent.

RULE 105. ASSESSMENT "ON THE MERITS"

Judges, both at the oral and written advocacy stage, must assess the case on its presentation by the advocates and not the judges' propensity to decide the case on one side or the other before viewing the briefs or hearing the argument. Thus, all competitors should have an equal chance of prevailing prior to the presentation of their brief or argument.

This rule does not forbid assessing the legal merits of a counsel's case; quite the reverse. A substantive innovation in the theory of the case that persuades a judge that a particular side had more merit than she thought should be strongly rewarded and encouraged.

Judges must also be reminded that each competitor is to be evaluated independently of his or her partner. Judges must deliberate independently and not consult with each other when scoring.

II. BRIEFS

RULE 201. COMPOSITION OF BRIEF

(a) *Brief-Writing Restricted to the Team.* The purpose of brief-writing is to improve the skills of the team assigned to write the brief. Accordingly, only the team members registered for the competition may edit, write or participate in drafting the brief. Where a school has two teams, the members of each team may not communicate with the other team in writing that team's brief. While team members may be substituted, the ILC EE may disqualify a team if they find that the substitution process has been employed in bad faith to circumvent this rule.

(b) *Petitioner and Respondent.* Teams will be assigned at random to write either the Petitioner or Respondent brief. For clarity, these titles will be used even if the posture of the case is a direct appeal (with petitioner referring to the appellant and respondent to the appellee). Teams will be notified of their status as Petitioner or Respondent, as well as the name of their party, when the problem is distributed.

(c) *Team Identification.* Every team is randomly assigned a team identification number. Teams must be notified of their team identification number when the problem is distributed. The team number must be the only form of identification used in the brief. This number must be included on the cover of the brief in lieu of the team name.

(d) *Briefs Must NOT Be Made Broadly Available.* The ILC Problem is published each year in the MCB Casebook, which is used by schools and bar associations across the nation for various internal and external moot court competitions. To ensure that the problem can be used again by others in this age of easily Googleable documents, competitors agree:

- (i) To NOT distribute their briefs, copies of the Record, or other material produced in preparation of the competition, without the express written consent of the MCB, and,
- (ii) To circulate the briefs solely within their own schools or institutions, and not supply them to other students employing the ILC problem in other competitions.

Nothing in this Rule prevents a competitor from employing their materials for this competition in future legal work, provided the materials are properly transformed so as not to provide undue assistance to others employing the competition problem.

(e) *Property of MCB*: Competitors grant the MCB nonexclusive worldwide rights to reproduce and distribute any materials submitted or recorded throughout the Competition.

RULE 202. LENGTH AND FORMAT OF BRIEF

(a) *Length*. The brief must not exceed forty (40) pages in length (but need not take up the entirety of this allocation).¹ Only the Statement of the Case, Summary of Argument, Argument, and Conclusion count towards this limit. Competitors must not include Appendices.

(b) *Non-Responsive*. Briefs are to be non-responsive to any other participant's or team's brief.

(c) *Form*. All citations must in the form prescribed in the latest edition of *the Bluebook*. All briefs must be in twelve point Century Schoolbook font (including footnotes). The briefs must be double-spaced, with one inch margins on all sides. Footnotes must also be double-spaced. The page size must be standard U.S. letter size.

(d) *Contents*: Briefs must contain only the following sections, in the below order:

(1) a title page,

(2) a table of contents, with page references;

(3) a table of authorities, divided into (A) cases (alphabetically arranged), (B) statutes, and (C) other authorities, with references to the pages of the brief where they are cited;

(4) a statement of the questions presented for review;

*(5) a concise statement of the case setting out the facts relevant to the issues submitted for review, describing the relevant procedural history, and identifying the rulings presented for review, with appropriate references to the record;

*(6) a summary of the argument, which must contain a succinct, clear, and accurate statement of the arguments made in the body of

¹ Competitors should not assume that any penalty will be levied for being significantly under this limit, nor that any benefit will be gained by 'padding out' the brief to this limit. Competitors' should attempt to articulate their arguments concisely—neither longer nor shorter than each argument requires.

the brief, and which must not merely repeat the argument headings;

*(7) the argument, which must contain appellant's contentions and the reasons for them, with citations to the authorities and parts of the record on which the appellant relies as well as, for each issue, a concise statement of the applicable standard of review (which may appear in the discussion of the issue or under a separate heading placed before the discussion of the issues); and,

*(8) a short conclusion stating the precise relief sought.

(e) *Page Numbers*: All parts of the brief that do not count towards the page limit must be numbered in lowercase roman numerals (i, ii, iii, iv, etc.), while those that do count towards the page limit (designated by an asterisk above) must be numbered in Arabic numerals (1, 2, 3, etc.). Page numbers should be centered in the lower margin.

RULE 203. PLAGIARISM

(a) *Rule Against Plagiarism*. Plagiarism is the act of incorporating into one's work a substantially similar portion of another's work without adequately or properly indicating that source. No plagiarism may take place in the ILC.

(b) *Reporting Alleged Plagiarism*. If a competitor knows or has reason to know of potential violations of the rule against plagiarism s/he should report his/her concern to the attention of the MCB at mootcourt@nyu.edu. Reports may be made anonymously. Under no circumstances should any competitor contact another team regarding plagiarism.

(c) *Procedures for Responding to Plagiarism*. In the event of alleged plagiarism, the MCB will evaluate the brief in question. Penalties, including but not limited to disqualification from the Competition, will be assessed at the discretion of the MCB.

RULE 204. SERVICE OF BRIEFS

(a) *Service of Briefs on the MCB*. Each team must serve one (1) copy of its brief via email to the MCB no later than the time indicated on the ILC website. The brief should be e-mailed to mootcourt@nyu.edu.

(b) *Service of Briefs on Opposing Teams.* The MCB will distribute to each team all briefs submitted to the MCB within a week after all briefs have been received.

(c) *Extension of the Brief Deadline.* An extension of the Brief deadline is very unusual and will be granted only in cases of extreme hardship. A team wishing to seek an extension should write to the ILC EE as soon as the need for one becomes apparent. The ILC EE's decision to withhold an extension may be appealed to the MCB.

(d) *Penalties for Late Service.* If a brief is not submitted by ten minutes following the scheduled deadline, ten percent of the final brief score will be deducted, with an additional ten percent deducted every twenty-four hours the brief is not served thereafter.

RULE 205. SCORING THE BRIEFS

(a) *Brief Graders.* Each brief must be read and scored by at least five members of Moot Court Board or, if feasible, the Immigration Bar.

(b) *Guidelines.* Briefs are to be scored according to the brief scoring guidelines annexed to these Rules.

(c) *Grading Process.* After all brief scores have been submitted, the highest and lowest scores must be discarded and the remaining three averaged to generate the "final brief score." The final brief score must then receive deductions, for violations of the rules respecting brief formatting, Bluebooking, and other matters specified in the brief grading guidelines.

(d) *Weight.* The brief score will count as fifty percent (50%) of each team's total score for the preliminary rounds, and nothing thereafter.

(e) *Best Brief.* The Best Brief Award goes to the team which wrote the brief that, after adjustments for penalties, has the highest final score. If the highest final score is tied, Best Brief must be shared between the tied teams.

III. ORAL ARGUMENTS

RULE 301. GENERAL

(a) *Participation in Oral Arguments.* Only the team members registered for the competition may participate in oral arguments. Only the two designated speakers from each team may argue, but the third team member (if one is registered) may sit at counsel's table. No-one else, including coaches, may sit counsel's table.

(b) *Assistance in Oral Argument Preparation.* A team is encouraged to practice oral arguments before the competition, and may seek the assistance of professors, practitioners, and others in their oral argument preparation only. Teams may receive no guidance from coaches or advisors during a round. Teams from the same school may not assist each other with oral argument.

(c) *Team Identification.* Throughout the competition, teams will be identified to judges by their randomly assigned team identification number. While names of team members may be disclosed, academic affiliation may not. Competitors must not use apparel, jewelry, backpacks or any other materials that identify academic affiliations. If a judge asks a team member what school the team member represents, the student should respond that the rules do not permit the divulging of that information until after the competition. Violation of this rule will result in a 10-point penalty deducted from the total oral argument score for the round in which the disclosure is made. On appeal, the MCB may waive the penalty if the disclosure was truly inadvertent.

(d) *No scouting.* All rounds are open to spectators. However, no team member, coach, or faculty advisor of any school still participating in the Competition may attend the argument of any school other than their own, or receive information from any person who has attended an argument of any other school. All competitors and coaches may attend the semifinal and final rounds.

(e) *Right to Videotape.* All competitors and spectators grant the MCB and NYU School of Law the unrestricted right to videotape the competitors during oral arguments from all rounds, and to use, display, or reproduce this videotape for any and all purposes they deem necessary or appropriate. No competitors, coaches, advisors, or spectators from any visiting institution may videotape or in any way record any part of the competitions.

RULE 302. ORAL ARGUMENT FORMAT

(a) *Time Allowed for Argument.* Oral arguments are limited to a total of thirty (30) minutes per team. **Team members may allocate their time between themselves in any manner they wish by advance arrangement with the clerk, provided that once a given team member finishes arguing, they cannot argue again in that round (unless presenting petitioner's rebuttal).**² Petitioners, by advance arrangement with the clerk, may reserve up to three (3) minutes for rebuttal. Petitioners desiring rebuttal time must inform the clerk of the name of the team member who will make the rebuttal argument. Only one team member may make a rebuttal argument, and that rebuttal must not exceed three (3) minutes.

(b) *Clerk's Time Warnings.* Clerks must keep time during the oral arguments and will use cards to inform competitors of how much time they have remaining. The specific time warnings will be: 10 minutes, 5 minutes, 2 minutes and 1 minute.

(c) *Extra Time.* Once time is expired, the competitor may request additional time from the judges. The allowance of more time is at the discretion of the panel of judges, but the grant of more than five (5) additional minutes to a team not extended to the other team does not constitute error sufficient to merit the elimination of scores from that round.

(d) *Clerks.* Each argument must be clerked by a member of the MCB. When all participants are settled, the clerk must call the session to order and direct the Petitioner to commence the argument. The clerk will keep time via time cards during both arguments and Petitioner's rebuttal (if any). Following the argument, the clerk must call the session to a close, dismiss the participants for the scoring, and record the judge's scores when they are finished deliberating. The clerk must then recall the participants for the announcement of the results and a critique session.

² Thus it would be acceptable for A to speak 10 minutes and B to speak 20 minutes, but not for A to speak 10 minutes, B to speak 10 minutes, and then A to come back at the end. Once A sits down, she cannot stand up again during that argument time.

RULE 303. JUDGES

- (a) *Identity of Judges.* To the greatest extent possible, judges will be chosen from among members of the Immigration Bar. At least three judges must be present for an argument to commence.
- (b) *Judging Materials.* Judges will receive Record and Bench Memo for the ILC, but no briefs of the teams arguing before them.
- (c) *Conflict of Interest.* Each contestant has the duty to disclose to the clerk of the argument, prior to the commencement of the argument, any personal or professional familiarity with any judge sitting at any of the contestant's arguments. The only exception to this rule will be if the familiarity stems exclusively from the judge's participation in one of the contestant's prior arguments. The clerk of the argument must immediately report the disclosure to the ILC EE or her designee. The ILC EE or designee, after discussing the matter with all of the parties involved, will then decide whether the judge should be recused. Failure to make the required disclosure will result in the imposition of penalties at the discretion of the MCB.
- (d) *Communication with Judges.* It is a violation of the Rules of the Competition for any participant to reveal any contestant's prior oral or brief scores to any judge in argument during the competition.
- (e) *Quality of Judging; Appeals.* The MCB makes every effort to ensure quality and professionalism among judges in the competition. Comments from participants concerning the performance of judges are welcome to assist the MCB in this task.

In the event that a judge's conduct is so unprofessional as to compromise the impartiality of his or her scoring and/or seriously interfere with the performance of the competitors, an argument may be discounted from the scoring. Claims of such unprofessionalism must be made in writing to the ILC EE within four (4) hours of the contested argument. The MCB must determine whether discounting will occur within twenty-four hours of receiving the complaint, and its decision is final.

IV. COMPETITION STRUCTURE

RULE 401. PRELIMINARY ROUNDS

(a) *General.* There will be three preliminary rounds. In these rounds, teams will be randomly assigned an opponent. Teams will not meet more than once in these initial three rounds. Each team will argue at least once as both Petitioner and Respondent.

(b) *Scoring.* The oral scores are determined by the panel of three judges, without knowledge of the brief score. Each judge must score competitors independently and without deliberation with their fellow judges, employ the grading rubric annexed to these Rules in determining oral argument scores. The average score for the two oral competitors will be the team oral argument score.

(c) *Winning the Argument.* In the preliminary rounds, the winner of an argument is determined by averaging the scores awarded by each of the judges; the higher score wins. In the preliminary rounds, “winning the argument” is an honorific only.

(d) *Weight.* The total oral score will count for fifty percent (50%) of the overall preliminary score with the total brief score counting for fifty percent (50%).

(e) *Best Oralist.* The Best Oralist must be awarded based on individual oral performances in the preliminary rounds. In order to be eligible for Best Oralist, a participant must argue in all three preliminary round arguments. Each eligible participant’s total Best Oralist score is determined by disregarding the highest and lowest scores of the twelve individual oral scores (3 rounds x 3 judges) and then averaging the remaining seven scores. The participant with the highest individual score wins. In the event of a tie, the award must be divided evenly among the Best Oralists.

RULE 402. QUARTER-FINAL ROUND

(a) *General.* The eight highest-ranked teams from the preliminary rounds (taking into account brief score and oral argument score) will advance to the quarter-final round. Advancement is based on each team’s

performance in the preliminary rounds; if two teams are tied, the team with the highest combined Best Oralist score advances.³

(b) *Pairings and Representation.* If possible, all teams in the quarter-finals must argue on-brief and be paired accordingly. If not possible, two teams must argue off-brief and two teams must argue on-brief, each pair of teams placed against each other. If this too is not possible, teams must be paired by lot.

(c) *Scoring.* The determination of the “winning” team is made by a vote of the judging panel without consideration of past rounds or the briefs. To assist the judging panel in its deliberations, judges should score the argument under the guidelines as normal, and then deliberate and vote on the winner.

RULE 403. SEMI-FINAL ROUND

(a) *General.* The four winning teams from the Quarter-Final rounds will advance to the semi-final round.

(b) *Other Matters.* In all other respects, the Semi-Final Round is governed by the rules applicable to the Quarter-Final Round.

RULE 404. FINAL ROUND

(a) *General.* The winners of the semi-finals advance to the final round. There will only be one round of oral argument.

(b) *Scoring.* Neither the brief nor previous round oral scores are considered; to determine the winner of this round, a panel of judges must make their ruling based on a majority vote, after having due regard to the oral argument guidelines.

(c) *Prizes.* The winner of the Final Round is the winner of the ILC. The second team in the Final Round is the runner-up.

(d) *Distribution of Scores.* Each team must receive a letter containing their total brief score, oral scores, and ranking at the conclusion of the Final Round. Scores may not be distributed at any other point during the ILC.

³ In the event that the combined Best Oralist score is *also* tied, the team with a higher brief score advances. If this too is tied, the advancing team will be determined by lot.

V. COMPLAINTS AND APPEALS

RULE 500. COMPLAINTS

All complaints regarding implementation and interpretation of the Rules of the Competition or regarding the running of the Competition in general must be submitted via email to the ILC EE at mootcourt@nyu.edu (with notice given to all affected parties) within seventy-two (72) hours of the events giving rise to the complaint.

RULE 501. INITIAL RESOLUTION OF COMPLAINTS

Complaints must in the first instance be resolved by the ILC EE. The ILC EE must communicate their decision via email to all affected parties within two working days after the complaint is lodged. In their determination of the complaint, the ILC EE must include an explanation of the appeals process.

In the resolution of a complaint, the ILC EE is empowered to make such decisions, including but not limited to suspending or modifying these rules, as seem to them necessary for the fair and equitable resolution of the complaint consistent with the ILC's Mission.

RULE 502. APPEALS

(a) *Lodging an Appeal.* A decision of the ILC under any of these rules is subject to review by the MCB. An appeal is lodged by emailing the Editor-in-Chief of the Moot Court Board, including the decision objected to, within 72 hours of the ILC EE's decision at mootcourt@nyu.edu.

(b) *Right of Appeal.* Any person affected by a decision of the ILC EE has the right to lodge an appeal of that decision.

(c) *Appeals Procedure.* The MCB Executive Committee, excluding the ILC EE, must determine the appeal using procedures not inconsistent with the MCB's Bylaws. The Executive Committee may, but need not, hold a hearing with the parties to discuss the appeal. However, all competitors affected by the appeal have the right to be given notice of the appeal and the opportunity to make at least written submissions to the Executive Committee prior to its determination of the appeal.

(d) *Determination of Appeals.* In determining an appeal, the Executive Committee is empowered to find that the Executive Editor correctly

interpreted or applied the rule, but nonetheless waive a penalty or punishment if it believes doing so is merited by the balance of equities.

(e) *Remedy of Scores.* The remedy for any successful protest or appeal of a score (either brief or oral argument) will be the elimination of that judge's score and the calculation of a substitute score based on an average of the other scores on that particular panel.

(f) *Emergency Appeals.* If an appeal of the ILC EE's decision is sought and circumstances will not permit the Executive to meet and deliberate on the appeal, the Editor-in-Chief of the NYU Moot Court Board must hear and determine the appeal.

(g) *All Appeals are Final.* No matter the method of appeal, competitors agree that all appeals, once taken, are absolutely final.