

Judge Instructions

Edward C. Stone Moot Court Competition

Boston University School of Law

Overview: The Stone Moot Court Competition is a voluntary program for second year students to develop their skills in oral and written advocacy. The students work in teams of two, representing either Appellant/Petitioner or Appellee/Respondent.

Oral Argument Overview: During the argument, we encourage judges to interrupt the advocates with questions relating to the issues of the case. Ideally, each student will spend a significant portion of his or her oral argument answering challenging questions from the bench. The Preceptors will grade the advocates based on their oral presentations. In addition, we encourage you to give feedback and comments to the students about their advocacy skills. We have enclosed a copy of the oral score sheet that the Preceptors will use. You may use this as a guide when giving students feedback on their oral performances, although you should not assign scores to the students' performances.

Judges' Conduct: Although Stone is a competition, please remember that these are second-year law students of varying ability. We encourage judges to challenge the advocates, which includes interrupting them to ask questions, but we also ask judges to be mindful of the number of questions and interruptions. Please do not spend more time talking than the advocates do! Moreover, the students take this competition seriously, and we ask that judges refrain from joking with the other members of the bench during arguments.

Moreover, we want Stone Moot Court to be a safe and inclusive competition where participants feel comfortable learning and growing. When providing feedback, judges can engage in implicit bias, favoring one type of participant over another without realizing it. Sometimes even feedback that you may feel is complimentary can, in fact, reinforce negative stereotypes. The following are steps you can take to ensure you are personally not engaging in this type of feedback:

- Focus on the *content* of a participant's speech rather than the *speech itself*. Ask yourself if you would give the same feedback if a participant's race or gender was different.
 - For instance, offering compliments on "eloquence," "poise," or "tone." This apparent praise, frequently given only to feminine speakers, may focus on the tone of speech and not the quality of argument.¹
 - Avoid comments on how a person is "well-spoken," "has a great vocabulary," or "speaks articulately." When these platitudes are given to non-white individuals and non-native English speakers, it may inherently indicate a 'white' speaking style is preferable to other styles.²

¹ For more information on how gender affects the way we perceive speech, see Hillary Waterman, *On Men and Women's Public Speech*, JSTOR DAILY (Mar. 23, 2016), <https://daily.jstor.org/gender-and-public-speech/>.

² For more information on how race affects the way we perceive speech, see Christine Ro, *The Pervasive Problem of 'Linguistic Racism'*, BBC (June 3, 2021), <https://www.bbc.com/worklife/article/20210528-the-pervasive-problem-of-linguistic-racism>; Sharese King & Katherine Kinzler, Opinion, *Bias Against African American English Speakers Is a Pillar of Systemic Racism*, L.A. TIMES (July 14, 2020), <https://www.latimes.com/opinion/story/2020-07-14/african-american-english-racism-discrimination-speech>; KATHERINE KINZLER, *HOW YOU SAY IT: WHY YOU TALK THE WAY YOU DO--AND WHAT IT SAYS ABOUT YOU* (2020).

- Be mindful of comments on a participant's posture.
 - Certain comments about hand gestures, head tilts, or general “confidence” may reinforce the idea that the best lawyer is a stereotypical white man and anything that draws attention to the body distracts judges.³
- Remember we tend to give preferential treatment to people who are like us—our same gender, race, or even same college major.
 - In Moot Court, one of the primary ways participants are judged is by how they respond to questions. Make sure you are not favoring one participant or group by asking them significantly more questions than other participants.⁴

Please feel free to contact us about specific examples or specific concerns so we can continue to improve our judging guidelines.

Best speaker: After the argument, you and the other judges will recess briefly to decide on a best individual speaker for the argument. You will then return to the bench to announce your decision. You should base your decision solely on the quality of the students' oral advocacy skills, not on the legal merits of the case. Although your personal view of the law at issue may provide a basis for raising questions during the argument, please do not allow your views on the merits to influence your evaluation of the participants' performances.

Scoring: Student Preceptors score the participants on their advocacy skills. The Preceptors are third year students with extensive moot court experience. The Preceptors read and score all of the briefs and attend and grade every oral argument. The Preceptors' scores determine the winners of the Competition. This provides necessary uniformity in scoring. Although you will not be scoring the participants, as a judge you will fulfill a vital role.

Briefs: We have attached the briefs for the case you will be hearing. Although you need not score the briefs, the students will appreciate any constructive comments you might have.

Thank you for supporting the Stone Moot Court Competition. We hope you enjoy participating!

³ For more information on how gender and race can intersect with Moot Court judging, see Susie Salmon, *Reconstructing the Voice of Authority*, 51 AKRON L. REV. 143 (2017).

⁴ For more information on in-group bias, see *Why Do We Treat Our in-Group Better than We Do Our Out-Group?*, THE DECISION LAB, <https://thedecisionlab.com/biases/in-group-bias/>.