

# **LSU ARBITRATION COMPETITION RULES AND PROCEDURES**

## **Article I – Team Eligibility**

1. An Arbitration Team shall consist of two student-attorneys.
2. Student-attorneys must be members of the 2L or 3L classes at the LSU Law Center and in good standing.
3. Any student at the LSU Law Center may play a witness in an Arbitration hearing, and only students at the LSU Law Center may play witnesses.
4. Substitution of student-attorneys may occur up to a date designated by the Trial Advocacy Board which shall be no later than one day before the first preliminary round. No substitution of student-attorneys may occur after this date.
5. A student attorney may withdraw from the competition up to 24 hours before the first preliminary round. In the event a student attorney withdraws in this manner, it is the responsibility of the other student attorney teammate to find an eligible substitute for the competition as set forth in Article I(4).
6. Student attorneys must inform the Trial Advocacy Board of any and all scheduling conflicts for all Arbitration competition dates no later than two days before the first preliminary round.
7. In the event one or both student attorney(s) withdraw(s) or is/are otherwise unavailable for an Arbitration round at any time up to 24 hours before that round, that Team shall be considered to have forfeited the competition.
8. The Trial Advocacy Board shall endeavor to accommodate scheduling conflicts of which it is notified pursuant to Article I(6) to the best of its ability, subject to the scheduling of the competition itself.

## **Article II – Arbitration Rules and Procedures**

1. Each arbitration shall be presided over by one or more attorneys, who shall act as the panel of arbitration judges. The case will be presented to the Panel as if they are the Arbitrators who would decide the merits of the case, and attorneys should address the judges as “Members of the Panel” or “Panel.”
2. The Panel may ask questions of the lawyers during their opening statements and summation but may not ask questions of the witnesses.
3. Each team will have forty-five (45) minutes to present their side of the case during a hearing, which shall consist of an opening statement, direct examinations, cross-examinations, redirect examinations where permitted, and closing arguments.
4. Only the student-attorney handling the examination of a witness may object during the testimony offered by the witness.
5. Lawyers should remain seated during all phases of the hearings and need not stand for any objection or presentation. If the Panel permits, lawyers and witnesses may stand for an exhibit presentation or during opening and summation.
6. No motions or requests relating to the case, including motions to dismiss and motions to amend, may be made before, during, or after the hearing.

## 7. Fact Invention

- a. A student-attorney may not invent or create facts.
- b. A student-attorney shall be extraordinarily careful to be fair, accurate and comprehensive in staying within the bounds of the file. When in doubt as to whether the file supports a question or argument, an advocate shall err on the side of not asking the question or arguing the fact.
- c. The case file is a “closed universe” of facts and student-attorneys may use only the materials provided in the file except where the file states otherwise.
- d. A witness may not “invent” an individual or an exhibit not mentioned in the file nor offer testimony or evidence from that “invented” individual or about the exhibit.
- e. A team may not invent anything about a witness’s background which is not specifically stated in the file.

## 8. Witnesses

- a. A witness may testify to a fact which, although not in the witness’s statement or deposition, is part of the file (as expressly stated in another witness’s statement or appears in an exhibit). Under these circumstances, it is permissible for an advocate to show the “other witness’s statement” or the “exhibit” to the witness. In such cases, however, the opponent may impeach the witness regarding the omission of the fact from the witness’s statement.
- b. Witnesses are not allowed to use notes or his/her deposition while testifying at trial. Student-attorneys may, however, use a deposition to refresh the witness’s memory or impeach the witness.
- c. Witnesses shall not be sequestered, and teams are not to bring a sequestration request.
- d. All formal statements, depositions and former testimony are full, complete and accurate descriptions of all material events and occurrences within the witness’s knowledge, unless the statement, deposition, testimony or file specifically states otherwise. All such statements are also presumed to be truthful unless the witness specifically states elsewhere that the statement was not truthful.

## 9. Exhibits and Demonstratives

- a. All documents, statements, discovery responses, depositions, diagrams, photographs, signatures, and other materials included as part of the case file are deemed to be originals and authentic. All documents, records, and other materials that were sent to or by a witness are deemed to have been received or sent by that witness.
- b. Teams are strongly encouraged to develop, introduce, and use demonstrative exhibits and visual aids that assist in the presentation of evidence and arguments and that help the Arbitrator Judges understand the case. Case file materials may be enlarged or used as long as they are identical or are substantially identical and do not distort the facts or law. Demonstrative exhibits and visual aids are limited to information that is contained directly or by reasonable inference in the case file.
- c. Teams are permitted and strongly encouraged to use technology to assist in such presentation of their case, particularly basic presentation software such as PowerPoint. Teams planning to use technology should confer with the Trial Advocacy Board and the Law Center’s IT department prior to their round.

- d. Teams may provide a copy of any written or prepared exhibits, visual aids, or other materials that are introduced or used during the hearing to each of the Arbitrator Judges or to the Arbitrator Judge Panel. These materials may be presented at the beginning of the hearing or during the hearing as they are used, at the discretion of the Panel and/or the teams. In the interests of fairness, teams should spend no more than ten dollars (\$10) on the preparation of such exhibits.

### **Article III – Applicable Rules of Evidence and Law**

1. Each team may present all relevant and reliable evidence. The parties may stipulate to the admissibility of exhibits, or they may reserve the right to argue the issue to the Panel. Any issues will be ruled on by the Panel.
2. The Panel shall be guided by the Federal Rules of Evidence to determine the admissibility and weight of evidence, but is not bound by any rules of evidence and may enter any evidence they wish in order to fairly decide the arbitration.
3. Student attorneys may make appropriate objections, which must be brief and supported by an evidentiary basis. Responses should be permitted by the chair only where an offer of proof is appropriate.
4. A team may ask the Panel to take arbitral notice of uncontroverted facts.
5. Other than any cases from the fictional jurisdiction specifically included in the Applicable Law section of the case file, there is no other binding case or statutory authority in this arbitration (this applies even to cases from the United States Supreme Court). Lawyers may argue what they deem appropriate regarding why their client should win. Lawyers may argue by analogy the law of real jurisdictions or to secondary sources such as a Restatement, but may not state that such law is binding.
6. A party may not ask for additional damages or any other relief beyond what is sought in the case file. A party may ask for lower damages or less relief if they choose.

### **Article IV – Observation of Rounds**

1. All rounds other than the Final Round are closed to the public, and student-attorneys shall not view rounds nor gather information from rounds that occur prior to the round in which they participate as a student-attorney.
2. Student-attorneys may not view another round until elimination from the competition.
3. Student-attorneys cannot serve as witnesses for other teams. This rule applies to elimination rounds as well as preliminary rounds, so a student may not be a student-attorney in one round and then serve as a witness for another team in a subsequent elimination round even if that student's team has been eliminated.

### **Article V – Scoring Procedure**

1. A "ballot" is the score from one judge of each student-attorney team participating in a single competition round. The ballot form shall be drafted by the Director of Advocacy Programs.
2. Preliminary Rounds

- a. Each Arbitration Team shall present both sides of the arbitration during the Preliminary Rounds. A team shall present the arbitration from the position of the Claimant in one preliminary round and from the position of the Respondent in the other preliminary round.
3. Advancement to Final Round:
  - a. The two teams with the highest team ranks as set forth in Rule V(4) will advance to the Final Round. The team with the highest team rank will have the option of selecting their side for the Final Round.
4. Team rank is determined by the following:
  - a. Teams are first ranked according to their win-loss ratio. A perfect record is the highest ranking.
    - i. A win or loss is determined by comparing the claimants' combined score and the respondents' combined score on each ballot. The team with the higher combined score wins that ballot. If the teams have equal combined scores, that ballot is tied.
  - b. For teams with the same win-loss ratio, teams are further ranked according to the average team score. Higher average score ranks higher.
    - i. The average team score is determined by taking the mean of every score on every ballot for each student-attorney team.
  - c. For teams with the same win-loss ratio and the same average score, teams are further ranked according to the point differential record. Higher point differential record ranks higher.
    - i. The point differential for a ballot is determined by the difference between the claimants' combined score and the respondents' combined score on the ballot. A team that won the ballot would have a positive point differential. A team that lost the ballot would have a negative point differential.
    - ii. The point differential record is determined by adding the point differentials of every ballot.
5. Advancement of Teams in the Final Round
  - a. The winner of the Final Round is the team who wins the majority of the ballots from the Round. In the event that each team wins an equal number of ballots, the Round's judges must meet to determine the winner of the Round.
  - b. Judges in the Final Round may elect to utilize the win-loss scoring procedure set out in V(4)(a)(i) or may simply vote for the winning team. If voting is elected, the judges must select a winner by majority vote.
  - c. In the event of a tie, the judges must confer and select a winner. Majority vote will control this selection.