****

**Witness Examination Competition Rules**

|  |  |
| --- | --- |
| **1. COMPETITION NAME** | |
| 1.1 | This competition will be known as either the **ANU Law Students’ Society Senior Witness Examination Competition** or the **ANU Law Students’ Society Novice Witness Examination Competition.** |
| **2. DEFINITIONS** | |
| 2.1 | ANU LSS: ANU Law Students’ Society |
| 2.2 | VP Competitions: The ANU LSS Vice-President of Competitions |
| 2.3 | Organiser: An ANU LSS Competitions Director or VP Competitions. |
| 2.4 | Board of Appeals: The ANU LSS President in consultation with the VP Competitions. |
| **3. REGISTRATION** | |
| 3.1 | By entering this Competition, all competitors agree to be bound by the rules outlined in this document, as well as in the ANU LSS Appeals Procedure By-Law, and the ANU LSS Constitution. |
| 3.1.1 | All competitors must be members of the ANU LSS. |
| 3.2 | Competitors must register individually as a team of one. Throughout the competition competitors must also nominate and provide a witness for their rounds. A nominated witness may change between rounds. |
| 3.2.1 | Competitors in the Novice Witness Examination must not have competed in any internal ANU Witness Examination competition run by the LSS. |
| 3.2.2 | If a competitor has competed only partially, or has competed in a similar competition external to the ANU, they must seek special permission to register from the VP Competitions. |
| 3.2.3 | The nominated team members must remain the same for the duration of the Competition. |
| 3.3 | Team members must not have graduated with a law degree in any jurisdiction. |
| 3.4 | Competitors must register by the registration date as set by the VP Competitions. |
| 3.5 | The VP Competitions shall allocate all teams entering the competition a random team number, which will be used to identify teams. |
| 3.6 | The VP Competitions, ANU LSS President and Competitions Director (Witness Examination) cannot compete in this competition. |
| Penalty: | Any contravention of a rule of section 3 may result in disqualification at the discretion of the Board of Appeals. |
| **4. COMPETITION STRUCTURE AND PROBLEM QUESTION RELEASE** | |
| 4.1 | The Witness Examination Competition is comprised of Preliminary Rounds and Knockout Rounds (see r 7.1). |
| 4.2 | The problem question will be released to competitors at least 1 hour prior to the commencement of the relevant round. |
| 4.3 | Each competitor must provide their own witness for each round of the competition in which they will compete. |
| 4.4 | Competitors must present themselves along with their witnesses at the time of the commencement of their round at the venue specified. |
| 4.5 | The witness may be any person who has not completed a law degree or equivalent qualification for practice in any jurisdiction, and who is not competing in the competition. |
| 4.6 | Failure to procure a witness for any round will result in forfeiture. |
| **5. PRELIMINARY ROUNDS** | |
| 5.1 | All teams will compete in each Preliminary Round. |
| 5.2 | Competitors may not observe, nor are they to be briefed on, proceedings of a Preliminary Round in which they are not competing. |
| Penalty: | Any contravention of 5.1 or 5.2 may result in disqualification at the discretion of the Board of Appeals. |
| 5.3 | Teams will be randomly allocated to sides. Every effort will be made to ensure that a team is not disadvantaged by the draw and will not meet the same team twice in the Preliminary Rounds. |
| 5.4 | All teams will be ranked on a single ladder. The top teams on the ladder at the conclusion of all Preliminary Rounds will progress to the Knockout Rounds (see r 6.1). |
| 5.4.1 | In the case of an uneven number of teams entering the tournament then one team each round (the ‘odd team’) will receive a bye. In the event of a forfeit a bye will also be awarded to the non-forfeiting team. |
| 5.4.2 | No team will be allocated more than one bye for being the odd team. |
| 5.4.3 | A bye will count as a win for the odd team. The score of a bye round will be an average of that team’s other two preliminary round scores. |
| 5.4.4 | A team cannot proceed to the knock-out rounds with more than one bye unless permitted by the VP Competitions. |
| 5.4.5 | At the discretion of the VP Competitions, teams that receive a bye will participate in a ‘make-up’ round after the preliminary rounds. The result of the make-up round will replace the result of a bye in that team’s scores. |
| 5.5 | Judges may not disclose the outcome of a witness examination, but are permitted to give general feedback to competitors so long as it is not obvious from that feedback which team won and lost. |
| **6. PROGRESSION TO KNOCKOUT ROUNDS** | |
| 6.1 | The top four (4) teams with the highest win/loss ratio from the Preliminary Rounds will progress to the Knockout Rounds. |
| 6.1.1 | In the event of teams being tied on win/loss ratio, the competition ladder will be determined by the team’s Point Margin, ranked from highest to lowest. |
| 6.1.2 | The Point Margin shall be calculated by subtracting the team’s aggregate ‘points against’ from the team’s aggregate ‘points for’. |
| 6.1.2.1 | *Points against* means the number of points scored by the team’s opponents across the Preliminary Rounds. |
| 6.1.2.2 | *Points for* means the number of points scored by the team across the Preliminary Rounds. |
| 6.1.3 | In the event that teams are still tied, the competition ladder will be further determined by the team’s aggregate points, ranked from highest to lowest. |
| 6.1.4 | In the event that teams are still tied on the ladder, progression shall be determined by a coin toss. |
| 6.2 | Competitors will be able to collect their scoresheets at the end of the Preliminary Rounds once all results from the round have been recorded. |
| Appeals: | Where a team believes that these rules have been incorrectly applied, an appeal should be lodged to the Board of Appeals (see r 15). |
| **7. KNOCKOUT ROUNDS** | |
| 7.1 | The Knockout Rounds will consist of Semi Final and Grand Final rounds. |
| 7.2 | Competitors may not observe, nor are they to be briefed on, proceedings of a Knockout Round unless they have been eliminated from the competition. |
| 7.3 | Semi Finalists will be announced after the conclusion of the Preliminary Rounds and teams will be informed of their side, which will be allocated by random draw. Each team will only compete once in the Semi Final Round. |
| 7.3.1 | The pairing of teams in the Knockout Rounds will be determined by the ladder from the Preliminary Rounds as follows:   * SF1: 1 v 4 * SF2: 2 v 3 * GF: SF1 winner v SF2 winner |
| 7.4 | The winners of each Semi Final round progress to the Grand Final. |
| 7.5 | Grand Finalists will be announced after the conclusion of the Semi Finals and teams will be informed of their side, which will be allocated by random draw. |
| 7.5.1 | The winners of the Grand Final will be announced by the judges at the conclusion of the round. |
| **8. JUDGING AND SCORING** | |
| 8.1 | All judges where possible will have suitable legal qualifications or relevant experience. Judges may be judges, magistrates, legal practitioners, legal academics, or students with demonstrated relevant experience in competitions, and/or relevant professional experience. |
| 8.2 | Where a student is serving as a judge, he or she must inform the two teams of any potential conflict of interest. Either team may ask for a different judge based on a conflict of interest. Where unavoidable, the student judge may still judge a round with a conflict of interest at the discretion of the VP Competitions. |
| 8.3 | Prior to their witness examination, judges will be provided with:   1. The competition problem; 2. A bench brief summary of the key legal issues raised in the competition problem; 3. A summary of the key rules of the competition. |
| 8.4 | Judges will award each team a total team score out of one-hundred (100). |
| 8.4.1 | Judges must award each team a different score; no draws are possible. |
| 8.5 | Where there is more than one judge, each judge will be asked to produce an individual score sheet. |
| 8.5.1 | Where there are two judges on the bench, the bench must reach a unanimous decision. |
| 8.5.2 | Where there are three or more judges on the bench, the bench must reach a majority decision. |
| 8.5.3 | If a bench consists of more than one judge in the Preliminary Rounds, the judges scores will be averaged for the purposes of the ladder. |
| 8.6 | Judges must not announce a winner after the witness examination is concluded but may provide further verbal feedback at their discretion so long as such feedback does not indirectly reveal the winner or loser of the witness examination. |
| 8.7 | Judges must not allow competitors to take their scoresheets; judges must return all scoresheets from their witness examination to the Convener. |
| 8.8 | Judges may, if they wish, request that observers and competitors leave the room while they confer. Outside of this discretion, observers may watch all segments of a round. |
| **9. TIMEKEEPING AND SPECTATING** | |
| 9.1 | Responsibility for timekeeping and adherence to allotted time periods and breaks rests with the Judges. |
| 9.2 | Competitors may use an electronic timing device (e.g. phone) for timekeeping purposes during a witness examination. |
| 9.3 | If resources and volunteers are available, timekeepers and timekeeping devices may be provided and in such cases timekeepers will be solely responsible for all time keeping and penalties. |
| 9.4 | Decisions by judges as to elapsed times are final and non-reviewable, except in cases where the error is plain and substantial. Minor errors will be non-reviewable. |
| 9.5 | Observation of the Competition is encouraged, however potential for disruption must be minimised. Spectators should not enter or leave the room whilst a competitor is speaking. |
| **10. RESEARCH AND PREPARATION** | |
| 10.1 | All research and preparation for the rounds must be conducted solely by team members. Team members may receive general advice and assistance with respect to skills relevant to the competition and feedback on practices prior to the release of the question. After the release of the question and until the completion of the Competition competitors may not receive any advice or assistance. |
| Penalty: | Any contravention of r 10.1 may result in disqualification or a deduction of points at the discretion of the Board of Appeals. |
| 10.2 | Competitors must not discuss the contents of the trial with any person other than their witness. |
| 10.3 | Competitors may use electronic transmission devices after release of the problem but prior to the commencement of their round in front of a judge. |
| 10.3.1 | Electronic devices include but are not limited to; laptops, mobile phones and tablet computers. |
| **11. RELEASE OF QUESTIONS** | |
| 11.1 | Preliminary Round Questions |
| 11.1.1 | Questions will be released sixty (60) minutes prior to the commencement of judging for each round. |
| 11.1.2 | Materials given to competitors will consist of:   * The statement of their witness; * The statement of the opponent’s witness; * The relevant section(s) of any Act(s). |
| 11.1.3 | Competitors may meet with their witness thirty (30) minutes after the release of the problem question. |
| 11.2 | Final Rounds Questions |
| 11.2.1 | Problem question will be released sixty (60) minutes prior to the commencement of judging for the Semi Final. |
| 11.2.2 | Problem question will be released sixty (60) minutes prior to the commencement of judging for the Grand Final. |
| 11.3 | Unless otherwise stated all witness examination will be heard as if before the Supreme Court of the ACT. The jurisdiction to hear the case will be assumed. |
| 11.4 | Every effort will be made to ensure that problems are constructed in a way that does not disadvantage or advantage participants from any particular jurisdiction. |
| **12. WITNESSES** | |
| 12.1 | Witnesses will be supplied by the Competitor. |
| 12.2 | The witnesses will receive their materials at least one (1) hour before the commencement of the round. The allocation of time will be as follows: |
| 12.2.1 | At least thirty (30) minutes to review the problem; and |
| 12.2.2 | Thirty (30) minutes of being privately interviewed by their own counsel. |
| 12.3 | Witnesses are to be advised that their ‘performance’ commences as soon as they step into the meeting with their counsel. It is up to the competitor to suggest how that character be highlighted/toned down, as best suits the case on hand. However, competitors are reminded that it is a breach of professional ethics to coach their witness by, for example, suggesting the content of their evidence. |
| 12.4 | Witness statements are not presumed to be admitted into evidence. |
| 12.5 | Witnesses will be permitted to refer to their witness statements whilst giving evidence. |
| **13. DETAILS OF THE TRIAL** | |
| 13.1 | Counsel will not robe. |
| 13.2 | No evidence other than that which is provided by the Competitions Director(s) (including witnesses) may be tendered into evidence. |
| 13.3 | There will be one (1) counsel for the prosecution/plaintiff and one (1) counsel for the defence/defendant. |
| 13.4 | Counsel must give appearances. |
| 13.5 | The witness examination will proceed to follows: |
| 13.5.1 | Appearances |
| 13.5.2 | Opening by Prosecution: 2 Minutes |
| 13.5.3 | Opening by Defence: 2 minutes |
| 13.5.4 | Examination in Chief by Prosecution: 10 minutes |
| 13.5.5 | Cross Examination by Defence: 15 Minutes |
| 13.5.6 | Examination in Chief by Defence: 10 minutes |
| 13.5.7 | Cross Examination by Prosecution: 15 minutes |
| 13.5.8 | Break before Summation: 3 minutes |
| 13.5.9 | Summation by Prosecution: 3 minutes |
| 13.5.10 | Summation by Defence: 3 minutes |
| 13.6 | Judges may grant an extension of time of up to three (3) minutes per competitor. There will be a notification one (1) minute before the end of the relevant period, and another notification at the end of the relevant period as specified above. |
| 13.7 | Counsel may object and must state the grounds for objection. |
| 13.7.1 | The clock will be stopped during any objections. |
| 13.7.2 | The judge should ordinarily invite the opposing counsel to respond to the objection. |
| 13.8 | The judge may ask questions of witnesses. |
| 13.8.1 | The clock will be stopped during the question and answer. |
| 13.8.2 | The clock will not be stopped if the judge asks a competitor a question. |
| 13.9 | No re-examination of witnesses is permitted. |
| Penalty: | Any contravention of 13.9 may result in a five (5) mark penalty. |
| 13.11 | Defence counsel is not permitted to make a ‘no case to answer’ submission or apply for a Prasad direction. |
| Penalty: | Any contravention of 13.11 may result in a 5 mark penalty. |
| 13.12 | The swearing of the oath for witnesses shall be dispensed with. |
| 13.13 | During the trial competitors may use books, notes, and other materials. |
| 13.14 | Competitors citing authority are not required to produce the relevant casebooks to the court. |
| 13.15 | Competitors must not be more than five (5) minutes late for the commencement of the round: |
| Penalty: | Any contravention of 13.15 may result in a two (2) marks per five (5) minutes or part thereof penalty |
| **14. SCORESHEETS AND AWARDS** | |
| 14.1 | Score sheets and rankings are released by the Organisers to assist the educational value of our competitions. No appeals are permitted on the basis of score sheets or rankings. |
| 14.2 | Scores and rankings will be released during the competition in accordance with these rules. |
| **14. WITHDRAWALS** | |
| 14.1 | Teams which withdraw from the competition or any round of the competition within forty-eight (48) hours of their allocated timeslot will be banned from the following year’s senior ANU LSS competitions and external competitions in which the ANU LSS sends teams to. |
| 14.2 | Section 14.1 does not apply to teams with ‘good reason’ for withdrawal. ‘Good reason’ is determined under the discretion of the VP Competitions with the advice of the Competitions Director who is running Negotiation. |
| 14.3 | Section 14.2 shall only apply when the withdrawing team provides the relevant documents to prove their ‘good reason’. |
| 14.4 | | Section 14.3 may be waived under the discretion of the VP Competitions. |
| 15.1 | Where a team believes that these rules have been incorrectly applied, an appeal should be lodged to the Board of Appeals, in accordance with the ANU LSS Appeals Procedure By-Law. |
| 15.2 | Where the Board of Appeals has discretion to penalize a team in accordance with these rules, in determining the penalty the Board shall consider, inter alia:   * Any mitigating circumstances that would explain the contravention; * Any aggravating circumstances connected with the contravention. |
| 15.3 | The Board of Appeals reserves the right to waive a penalty where it believes that the circumstances merit such a decision. |
| 15.4 | Where a penalty is levied against a team, the penalty will be divided equally amongst counsel for that team. Where an individual competitor is disqualified, their team will be able to continue in the competition provided that two (2) team members remain in the team. |
| 15.5 | Judges shall not be notified of the application of any penalties at any time by the Competitions Director(s) or the Board of Appeals. |
| 15.5 | If a Judge becomes aware that a penalty has been or will be applied, they will be instructed not to take this penalty into consideration when marking the competitors. |
| 15.6 | The Competitions Director(s) and the Board of Appeals have full discretion as to the application of all penalties. |
| 15.7 | The Appeals Board will also have the discretion to disqualify or apply penalties to any team who acts in a manner that is contrary to the principles on which the competition is based or the interests of the competition. |
| 15.8 | Any team that forfeits will be deemed to have lost that Witness Examination round. Counsel for the forfeiting team will be deemed to have a mark of zero for that round. |
| 15.9 | Any team which forfeits shall be excluded from progressing through to the Knock Out Rounds unless permitted by the VP Competitions. |
| 15.10 | A forfeit will be considered to have occurred where a team withdraws once the problem question for the round is released. |
| 15.11 | Where a team believes that these rules have been incorrectly applied, an appeal should be lodged to the Board of Appeals, in accordance with the ANU LSS Appeals Procedure By-Law. |