



Burton D. Wechsler First Amendment Moot Court Competition

American University Washington College of Law
WASHINGTON, DC

Official Rules

2022

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PURPOSES OF THE COMPETITION

The purposes of the Burton D. Wechsler First Amendment Moot Court Competition ("Competition") are:

1. To stimulate student interest in current First Amendment law issues
2. To hone competitors' brief writing and oral advocacy skills
3. To recognize excellent brief writing and oral advocacy skills through competition

2022 TIMELINE

End of Registration	Problem Release	Briefs Due	Oral Arguments
August 26, 2022 11:59 pm EST	August 29, 2022	October 9, 2022 11:59 pm EST	November 4, 2022 – November 6, 2022

1. COMPETITION DIRECTORS

The Competition occurs at the command of the Directors, as appointed by American University, Washington College of Law's ("WCL") Moot Court Honor Society ("MCHS"). They are to act to fulfill the purposes of the competition, according to the rules of the competition. All decisions regarding the competition (including any disputes that arise during the competition, and all issues of rule interpretation) are to be resolved by the decision of the Directors. The Competition Directors reserve the right to amend the rules as needed.

The consequence for any violation of these rules will be resolved at the discretion of the directors. Potential remedies include disqualification from the competition, or adjustments to the violating team's score, proportionate to the severity of their violation.

Directors: The Directors for the 2022 Wechsler First Amendment Competition are Adam Domitz and Connor Sheehy and can be contacted via email at firstamendment.wcl@gmail.com.

2. TEAMS

2.1 Each participating law school may only enter one team.

2.2 A team must consist of two or three members.

2.3 Team members must share equally in brief-writing responsibilities whether the team is two members or three members.

- 2.4 If two members write the brief, then those two team members must argue in each round. If three members participate in the brief-writing process, then that team will be responsible for dividing its oral arguments so that each team member argues at least twice during the Preliminary Round. Accordingly, a team may not have three team members contribute to the brief while only two of the members argue for the team. In Elimination Rounds, for teams of three, no team member may argue in two subsequent rounds. *In other words, for teams of three, a team member may not sit out for more than one round in a row.*
- 2.5 Once the brief has been submitted, a team may not change its members. In the event of an extreme, unavoidable, and insurmountable hardship, the Directors may grant exemptions to this rule at their sole discretion.
- 2.6 Space restrictions may limit the total number of teams that may participate in the competition. There is guaranteed room for at least 26 teams.
- 2.7 Each law school shall designate an email address upon applying, to which all competition information will be sent. Competitors are obliged to check this email regularly and are responsible for any information communicated therein. Please contact the directors as soon as possible if the email needs to change at firstamendment.wcl@gmail.com.
- 2.8 To avoid potential impropriety, and the appearance of impropriety, competitors must not reveal what school they are representing until after the conclusion of the competition. This includes revealing this information to judges, other teams, and members of the WCL MCHS who are hosting the competition. Teams, judges, and MCHS members must not seek to discover this information. If a team, judge, or MCHS member nonetheless discovers what school another team is representing, they must not share this information with anyone except as necessary to report a violation of the rules to the directors.
- 2.9 No team from the WCL may compete in the competition. However, should there be an odd number of teams competing, the directors shall establish a “shell team” to present arguments in preliminary rounds to supplement the extra team. Consistent with the blind-scoring policy, the judges will not be informed of the shell team’s participation. Such a shell team will be scored as a competing team but will not advance into the elimination rounds.

3. BRIEFS

- 3.1 Each team will be designated as the Petitioner or Respondent at the release of the problem. This is the position that the team shall adopt in their brief. While each team will

only submit one brief arguing for one side, teams should prepare and expect to argue for both sides during the competition.

3.2 Because the purpose of this competition is educational, a team may receive limited assistance in the preparation of its brief. Specifically, permissible assistance is limited to discussion of the issues. No one other than a student team member may review or comment upon a draft of the brief or otherwise participate in developing a team's brief until it is electronically filed. However, teams may receive outside help after final submission of the brief for purposes of oral argument preparation. ***Any violation of this rule may result in immediate disqualification from the competition.*** At the problem release, teams will be provided with a document ("Certificate of Service") to execute which certifies their compliance with this rule. This must be submitted as a part of the brief on the last page. The team should be identified by its team number and there should be no information that indicates any information that would identify the team.

3.3 Briefs must not exceed thirty pages, *excluding* the cover page, the questions presented, the table of contents, the table of authorities, the statement of jurisdiction, and the Certificate of Service. Brief graders will disregard any writing in excess of the thirty-page limit as if the document ended at the last character on the 30th page after the excluded sections.

3.4 Briefs must be typed in the format of an eight-and-one-half by eleven-inch (8½" x 11") document, with one-inch margins, double spacing in both text and footnotes (except for where the twenty first edition of the Bluebook prescribes a different spacing--for example, in block quotations), in 12-point Times New Roman font. The title page may use different fonts, at the discretion of the teams. It is to be submitted to the Supreme Court of the United States:

- a. Cover Page;
- b. Questions Presented;
- c. Table of Contents;
- d. Table of Authorities;
- e. Jurisdiction Statement;
- f. Statement of the Case;
- g. Summary of the Argument;
- h. Argument;
- i. Conclusion; and
- j. Certificate of Service.
- k. No appendix is necessary or expected.

3.5 This is an "open universe" problem.

3.6 The cover page for the **Petitioner** must be **blue**. The cover page for the **Respondent** must be **red**. **Your school name or team member names must NOT appear on the actual brief.** Each team will be assigned a team number, which must be placed on the

Cover Page in the bottom right corner. Your assigned team number must be the only identifying information included in your brief.

- 3.7 Citations within the brief shall be in accordance with the rules in *The Bluebook: A Uniform System of Citation*, Harvard Law Review (21st Edition).
- 3.8 Each team must submit one electronic copy. The electronic copy must be in Portable Document Format (PDF) and a Word Document. It must be submitted to firstamendment.wcl@gmail.com by 11:59 pm EST on Sunday, October 9, 2022. Late briefs will receive a ten (10) point penalty per day, to be deducted from the total brief score. The first ten-point penalty applies at 12:00AM (ET) Monday, October 10, 2022, until exactly 24 hours after the deadline. At 12:00AM (ET) Tuesday, October 11, 2022, an additional ten-point penalty applies, totaling a twenty-point (20) deduction. Additional ten-point penalties apply and compound every twenty-four hours until the brief is submitted to firstamendment.wcl@gmail.com.
- 3.9 All briefs will be published on the Competition's website as soon as possible. Participants may consult other teams' briefs in preparation for oral arguments.
- 3.10 The Jurisdiction Statement in each team's brief should read:
- A Formal Statement of Jurisdiction has been omitted in accordance with the Rules of the Washington College of Law's Burton D. Wechsler First Amendment Moot Court Competition.
- 3.11 Citation to the problem should take the following form: "(J.A. at **.)"
- 3.12 Problem clarification questions must be submitted by Sunday, September 18, 2022, at 5:00 pm EST to firstamendment.wcl@gmail.com. Responses to clarification requests received by the deadline will be sent out by PDF in an email to all competitors by 5:00 PM EST on September 25, 2022. Briefs will be posted on the website as soon as possible.

4. BRIEF SCORING

- 4.1 Briefs are scored out of a maximum of 100 points. The final score of each brief will be the average of its grades. Each brief will be graded five times, each time by a different person. The highest and lowest scores will be dropped, and the remaining three scores will be averaged to determine the final overall score.
- 4.2 Any person grading the briefs or judging the Competition will not know what school the team they are assessing is from. Each participating team will be assigned a Blind Grading Number (BGN) and will be identified **only** by that number. *Any violation of this rule or attempt to identify a team's law school to a brief grader may result in that team's immediate disqualification from*

the competition. Wechsler Competition Directors will remove metadata from all brief PDFs upon receipt to protect team anonymity.

4.3 Briefs will be graded according to the following criteria:

- a. Compliance with the formal requirements set forth in these Rules and the General Instructions;
- b. Recognition of issues presented by the problem;
- c. Structure of the competitors' arguments;
- d. Application of appropriate law to facts;
- e. Use of authorities;
- f. Argumentative headings;
- g. Legal writing style;
- h. Ability to address and persuade against Opponent's arguments;
- i. Proper use of citation form in accordance with the Bluebook (21st Ed.); and
- j. Proper format, generally in accordance with The United States Supreme Court brief requirements.

4.4 Oral argument and brief winners will be published on the competition website shortly after the conclusion of the Competition.

5. ORAL ARGUMENT

5.1 Three (3) members may participate in the oral argument rounds, but only two (2) members may represent the team during any given oral argument round. For example, during the first round, Team Member A may argue the first issue and Team Member B may argue the second issue. During the second round, Team Member C may argue the first issue and either Team Member A or Team Member B may argue the second issue. However, if a team member does not participate in the arguments of one round, they must argue in the next round.

5.2 There will be three Preliminary Rounds. There will then be elimination rounds which will include an Octofinal Round, a Quarterfinal Round, a Semifinal Round, and a Final Round. The preliminary rounds will be conducted in a non-elimination format. For the first two rounds, teams will argue once on-brief and once off-brief. For the third preliminary round, teams will be seeded in a tournament-style bracket based on thirty percent (30%) brief scores and seventy percent (70%) oral argument scores from the first two rounds. This means that teams with the highest scores will argue against the teams with the lowest scores. **Judges will not be informed as to whether a team is arguing on-brief or off-brief.**

- 5.3 Each elimination round is scheduled in tournament-style brackets. This means that the teams with the highest scores will argue against the teams with the lowest scores.
- 5.4 Before each argument, the participants shall inform the bailiff of the order in which they will speak and the manner in which they will divide the allotted argument time, including rebuttal. Each team will be allowed a total of thirty (30) minutes of argument time, including rebuttal time (Petitioner only) and questions from the bench. The rebuttal time can be a maximum of five (5) minutes and may be taken entirely from one speaker's allotted time, or shared between the two speakers' allotted time. Each competitor must argue a minimum of (10) minutes).
- 5.5 A bailiff will signal each speaker when five (5), three (3), and one (1) minute(s) of each speaker's argument time remains. When the bailiff informs the speaker that his or her time has expired, the speaker must immediately end his or her presentation, or when appropriate, request additional time to briefly conclude.
- 5.6 No team may watch other teams' oral arguments, except at the Final round, or if the team is directly competing with that other team.
- 5.7 Visitors are not permitted until the final round of the competition. Coaches are permitted to watch the rounds. Teams are not permitted to watch other teams when they are not competing.
- 5.8 There shall be no recording or broadcasting (audio and/or visual) of oral arguments by anyone other than a WCL MCHS-appointed photographer during any round of the competition.
- 5.9 Teams must argue before the panel of judges that they are assigned. Refusal to argue before any particular judge or judges will result in a score of zero for that round. The Directors will work to ensure that Teams will be judged by different judges each round, but there may be instances where logistically there will have to be repeat judges.

6. GUIDELINES FOR VIRTUAL COMPETITION

In the case that the competition is virtual this year, the following guidelines will apply and additional rules will be provided in the event that the competition must be moved to a virtual space. Competitors shall, to the best of their abilities, prevent background noise and other distractions while they are arguing. Competitors shall remain muted when it is not their turn to speak. Cameras must be on for the entire round, even when the competitor is not arguing.

Backgrounds should be free from distractions and all items that could identify them, or their law school, must be removed. Competitors are required to wear business professional attire.

6.1 Team members may not be in the same physical room. Team members must also sign on to the platform independently. Coaches and other team members who are not arguing may only communicate with those arguing during breaks between rounds. Competitors should work to ensure that no other person is present in their room during the competition rounds.

6.2 During a round, competitors may only use the device they are using to access Zoom. This means that second screens are not permitted. Competitors may have standard materials printed out for their use.

6.3 Competitors should be prepared with the most up-to-date version of Zoom.

6.4 Competitors must not enter the Courtrooms until instructed by the Directors. There will be breakout rooms specifically for each team to meet in when they are not arguing. Judges will remain separate from Teams in a Judges' Room.

7. ADVANCEMENT

In any round, a team may argue against a team it has already argued against. Every precaution will be taken against this, but if it occurs, it will not constitute a violation of the rules. Teams will advance based on scores computed as follows:

7.1 **Preliminary Rounds:** Teams will be paired on a random basis for the first two preliminary rounds. Teams will then be seeded in a tournament-style bracket based upon thirty percent (30%) of the team's total score based on the brief and seventy percent (70%) based on the oral arguments from the two preceding rounds for the third preliminary round. For advancing to the Octofinals thirty percent (30%) of the team's total score will be based on the brief score and seventy percent (70%) will be based on the oral argument scores. Upon completion of all preliminary rounds, the total scores from all rounds will be added together. The top sixteen (16) teams with the highest aggregate scores will advance. The advancing teams will be seeded into a tournament-style single-elimination bracket (teams will be ranked based on score) for the Octofinal round which is the first elimination round of the tournament.

7.2 **Octofinal Round:** There will be a total of sixteen (16) teams. The advancing teams will be placed into a tournament-style single-elimination bracket for the Quarterfinal round. The highest-scoring team will decide which side to argue. In each matchup, the team with the higher score will advance. Eighty percent (80%) of the team's total score will be based on the oral argument score and twenty

percent (20%) will be based on the brief score. Eight (8) teams will advance to the next round.

7.3 Quarterfinal Round: There will be a total of eight (8) teams. Teams will be seeded in a tournament-style bracket with the highest-scoring team from advancing teams arguing against the lowest-scoring team from the advancing teams. The highest-scoring team will decide which side to argue. In each matchup, the team with the higher score will advance. Ninety percent (90%) of the score will be based on the oral argument score and ten percent (10%) will be based on the brief score. There will be a total of four (4) advancing teams. The advancing teams will be placed into a single-elimination bracket for the Semifinal round.

7.4 Semifinal Round: There will be a total of four (4) teams. In each matchup, the team with the higher score will advance. Ninety percent (90%) of the score will be based on the oral argument score and ten percent (10%) will be based on the brief score. There will be a total of two (2) advancing teams.

7.5 Final Round: The highest scoring team will decide which side to argue. The Final Round Panel will determine the Competition Champion.

In the event of a tie in the Preliminary rounds the team with the higher oral argument score will advance. In the unlikely event of a tie during the Octofinal, Quarterfinal, or Semifinal rounds, the team with the higher oral argument score will advance.

Advancement and Seeding Scoring Summary	
Third Preliminary Round	30% Brief and 70% Oral Arguments
Preliminary Rounds	30% Brief and 70% Oral Arguments
Octofinals	20% Briefs and 80% Oral Arguments
Quarterfinals	10% Briefs and 90% Oral Arguments
Semifinals	10% Briefs and 90% Oral Arguments
Final Round	Determined by the Final Round Panel

8. AWARDS

Awards will be given in the following categories:

8.1 Overall Competition:

- a. Competition Champion
- b. Competition, Runner-Up
- c. Semifinalists (2)

8.2 Brief Scores:

- a. Top 5 Best Briefs
- b. Best Respondent Brief
- c. Best Petitioner Brief

8.3 Oralist Scores:

- a. Top Five Best Oralists
- b. Best Oralist in Elimination Rounds
- c. Best Oral Advocacy Team
- d. Best Oral Advocate in the Championship Round

****Note:** Oralist Scores for Top Five Best Oralists and Best Oral Advocacy Team are tallied only from the first day of arguments, and the **Oralist Awards** and **Brief Awards** will be presented at the awards luncheon on the final day of competition. The teams that will be moving on to subsequent rounds be announced following the end of the Preliminary Rounds. Additional awards (e.g., for runners-up in any of the listed categories) may be presented if the Competition Directors determine that such additional awards would be appropriate.

9. EMERGENCY CONTACT INFORMATION

In case of emergency, competitors should contact Competition Directors at firstamendment.wcl@gmail.com.