



NATIONAL HIGH SCHOOL MOCK TRIAL CHAMPIONSHIP



Highly-Communicable Disease Policies for In-Person National Championship Competition

Herein, the NHSMTTC Board describes how an in-person national championship may function when there is a risk of spreading a highly infectious communicable disease. The goal is not to determine how any particular competition *will* function, but to provide a set of principles and to articulate the possible decision that the NHSMTTC may make or will likely make in such years, so that state coordinators and competitors can be prepared for the possibilities.

General Principles

A few general principles inform and govern the Board's approach. First and foremost, we seek to have a safe, in-person competition for all participants. Mock trial is best face-to-face and fairest when teams are competing in the same format, and our hosts deserve to know that we are as committed to coming to their states as they are to hosting us. In any particular year, some, all, or none of the mechanisms described may be employed to address highly infectious diseases present in the community. As a general rule, the Board will trend toward more protective measures.

Second, decisions about the competition will be based on the contemporaneous advice of public health authorities at the national level and at the state and local levels of our host state. This advice may be weighted differently at different times, but the Board trusts subject matter experts to guide our policies for each competition.

Third, every decision about the competition will be made as soon as practical. The Board understands that many decisions may have to be made within days or weeks of the competition itself, particularly if epidemiological realities are changing due to social (e.g. spring break travel) or disease-specific (e.g. new variants) factors. Accordingly, timely communication and flexibility on everyone's part will be required.

Finally, the Board recognizes that teachers, coaches, and members come from very different political, sociological, and legal situations, and the policies adopted by the Board are constrained by those factors. Like the schools themselves, we must operate within the bounds of what is possible for our membership as a whole, even if greater precautions could be enforced consistent with the law or political reality of a plurality or majority of member-states. However, the Board will not decline to adopt an appropriate policy because it would create issues for a small number of states.

Defining Highly Contagious Infectious Diseases

The NHSMTC shall define those diseases that are subject to this policy, but it is intended to cover highly contagious diseases that pose a significant risk to individuals' health and safety. These interests are each judged, and thus a disease that is highly contagious but has a milder impact may also be considered. As a general matter:

- COVID-19 and its variants, measles, mumps, and chicken pox are covered by this policy.
- The common cold is not covered by this policy.
- Other infectious - but typically less serious - diseases, like influenza, norovirus, or respiratory syncytial virus (RSV), are covered by this policy, but the NHSMTC does not anticipate the same consequences (i.e. a competition ban) will be necessary to address such cases.

Vaccination and Testing

The NHSMTC supports vaccination of all participants for all communicable diseases for which an FDA-approved vaccine exists, including COVID-19 and its variants. The NHSMTC urges all participants who can to be vaccinated and to keep current with any recommended boosters. However, because state law varies on when vaccines can be required, the NHSMTC will not require vaccination for participants or volunteers.

The NHSMTC requires frequent testing of symptomatic individuals and supports appropriate systematic testing of asymptomatic individuals. Ideally, such testing would occur before every large-scale gathering or trial day of competition. However, the Board understands that procuring a large amount of tests might be cost prohibitive. Accordingly, the NHSMTC may require a limited testing protocol, as follows:

1. All team participants (students, teacher coaches, and attorney coaches) will be required to test on-site and/or before traveling before the first formal event in the National Championship schedule in which they will participate. (Typically, this will be the pin exchange on Thursday night.)
 - a. Teams are urged to test before traveling where possible.
 - b. A specific protocol for testing will be distributed by the Host approximately one to two weeks before the competition date.
 - c. Teams may be required to travel with a sufficient number of tests to meet this requirement, at team cost.
 - d. Coaches may be required to report through a system established by the Board and the Host that all members of the team are negative before they may attend the first formal event of the competition.
2. All teams are required immediately to test any team members who display symptoms of infection and to report any positive test.
3. Volunteers and judges are encouraged to test at their own cost before the day on which their participation begins.

4. Any individual who experiences a positive test will be treated as infected until that individual tests negative consistent with contemporaneous guidance from health authorities.
5. Spectators or other attendees may be required to follow a testing protocol established by the Host.
6. Volunteers or others who test positive after activities or contact with others on site shall inform the Host and should expect to be isolated from further in-person NHSMTTC activities.

Isolation of Infected Individuals and Effect on Their Teams

Quarantine and Its Costs

If an individual tests positive for an infectious disease identified by the Board as requiring quarantine, the infected individual should be quarantined at the earliest possible time. Members of that individual's team should re-test as promptly as possible. In some instances, the Host may be able to provide hotel rooms in which such individuals may quarantine, but it is not the Host's obligation to do so. Teams participating in the National Championship should be prepared to bear the additional expense of hotel rooms for any infected student or coach.

Travel and Its Costs

Depending on contemporaneous health guidance, infected students or coaches may not be able to travel home as scheduled. If contemporaneous health guidance forbids such students or coaches from traveling, teams participating in the National Championship should be prepared to bear the additional cost of housing and feeding such individuals – including any chaperones required for minors – and of changing travel plans.

Isolation of Infected Individuals

If one or more members of a team tests positive shortly before travel to the competition site, the member or members who test positive may not travel to the competition site. The members of the team who tested negative may travel and compete without any infected members so long as the team has enough remaining members that it may legally compete consistent with the Rules of Competition.

Depending on local health guidance, the National Board will generally permit teams who had a team member test positive to participate in in-person rounds of competition if (a) each member of the team attending the trial round has tested negative for the disease prior to the round beginning; and (b) the team can legally compete under the NHSMTTC rules without the infected team member who is quarantining (i.e. there is an alternate who can step in).

Likewise, the National Board will generally permit team members who test negative to participate in large-scale events (pin exchange, Friday night social events, or the awards

banquet). Nonetheless, team members who test negative may be excluded from such events in particular circumstances or required to undertake additional precautions in order to be allowed to attend, and teams will be required to accept at registration the risk that they might not be allowed to attend these events in case of infection.

If after members testing positive for infection are excluded, a team does not have enough members to compete legally, that team may be forbidden from competing at the National Championship or may be required to compete under conditions set by the National Board. Such conditions are unlikely to afford that team the opportunity to advance normally in the competition. The National Board may, in its sole discretion, allow such teams to travel to the competition and participate in only the Large-Scale Events. Teams that cannot compete normally or that elect not to travel to compete under the conditions established will not be entitled to a refund of any competition-related expenses.

Participation in Large-Scale Events

To the extent that attendance at any large-scale event is mandatory, no team will be sanctioned or disadvantaged in any way if one or more of its members or the entire team chooses not to attend the pin exchange, Friday night social event, or Awards Celebration if a team that has had members that tested positive for infection is permitted to attend.

Masking or Protective Gear

If the spread of the infection contemporaneously in the community is mitigated by masking, the Board may require that participants wear masks and may require that those masks meet an appropriate standard (e.g., N95, KN95). Similarly, if the infectious disease in question is spread by touch, the Board may require that participants wear other protective gear, such as gloves. Likewise, the Board may require that participants take other routine health measures, such as using sanitizing wipes on courtroom surfaces or using hand sanitizer before and after competition rounds. The Host may provide appropriate materials for such protective efforts, or teams may be required to provide materials their own at their own expense. Teams will be required to accept this possibility at the time of registration.

Masking and other protective measures are not one-size-fits-all. For example, the Board may require masking during large-scale events, or it may require that everyone participating in a trial be masked, or it may except the presenting attorney and the presenting witness from being masked. Correspondingly, it may require masking during competition rounds or other activities that involve a team on which a member tested positive, either by only the team that had an infected member or by all participants. And so forth. Again, contemporaneous national and local realities and guidance from health care professionals will govern this question, and teams will be required to accept the possibility that supplemental protective measures will be required at registration.

If the National Championship occurs during a time that has an unusually high risk of one or more participants testing positive for a highly infectious disease, teams may be required to bring enough masks or other protective gear to use in case masking becomes required during the event. This may even occur between rounds, if circumstances dictate.

Regardless of whether masking is required for any event, during a period posing an unusually high risk of one or more participants testing positive for a highly infectious disease, any student may wear a mask or other protective gear for whatever events – including trials – that student wishes. Presiding and Scoring Judges will be instructed that they cannot require students to remove protective gear and that they are to take no account of it in completing their scoring ballots.

Limitations on Spectators/Observers

One of the best things about mock trial is the participation of students' peers, family, and friends, and family and friends filling the gallery is an essential part of mock trial. However, during a time that poses an unusually high risk of individuals contracting a highly contagious disease, those same individuals significantly increase the risk of an outbreak, both because of their number and because they sit close to one another during trials.

Accordingly, the Board may forbid attendance by spectators, family members, and other observers at the National Championship or to strictly limit the number of such individuals attending any particular round of competition or event. Every effort will be made to make this decision well in advance, but the Board reserves the right to respond to changing epidemiological circumstances by making this decision even in the days or weeks before the competition.

Teams will be reminded of this fact at registration, and all spectators, family members, and other observers will be encouraged to make all travel plans refundable or to obtain travel insurance that will mitigate the impact of a late decision by the Board to limit the number of attendees. Teams may be required to certify during registration that they have informed spectators, family members, and other observers of this policy and its possible impact on their travel.

Waivers

Waivers and hold harmless agreements may be required from all participants. Any minor will also need a corresponding agreement signed by their parent or guardian.

In consultation with the Host, the Board may also require waivers from judges and volunteers.

The Board has attempted to craft waiver forms for adults and student participants to serve as a starting point for waivers that could be requested in any particular year in state or national competition. Coordinators seeking to use these template waiver forms for their own

competitions should be aware that local law varies considerably with respect to the form and efficacy of these waivers, particularly as regards waiver by minors. Before any waiver is used in state or national competition, local counsel should be consulted to ensure compliance with state and local regulations and maximum enforceability.

Insurance

The Board has examined the question of event cancellation insurance. While such insurance is readily available and not too expensive, in the post-COVID era, insurance that permits cancellation for outbreaks of infectious diseases is rarer and – generally speaking – far more expensive. Whether to purchase such insurance is a difficult decision, but the premiums necessary to insure against the loss of a National competition (approximately \$200,000 in benefit) are prohibitive at the national level. Accordingly, the Board has decided not to purchase this additional insurance.

No modification of existing host agreements will be considered. However, if it seems likely that infectious disease-related issues will continue to impact National-level competitions in a way that could threaten their viability, the Board will recommend to future hosts that they examine insurance to cover such costs. The Board may also consider whether a contingency by which the Board would make a defined, limited financial contribution to a Host forced to cancel by an infectious disease.

Based on our investigation, the cost drivers for both insurance and self-insurance are hotel and venue contracts. In order to minimize these risks (and the consequent need to insure or self-insure against them), the Board recommends that, going forward, the negotiation of these contracts include attention to the possibility of cancellation on account of infectious disease. Effective risk-mitigation in hotel and venue contracts appears to be the best mechanism by which to limit the downside risks to Hosts or state member organizations.

Implementation of Specific Measures

The Board will consult with the Host before implementing any requirements or mitigation measures.

Subject to the necessity to act in emergency situations, the Board shall meet to decide what measures to implement at each competition. The first such meeting shall occur on or before April 1 of the competition year. Subsequent meetings shall occur on or before April 15 and May 1 of the competition year. Where circumstances have not changed, the Executive Committee of the Board may decide to restate the prior status report or measures in lieu of setting a meeting of the Full Board.

The Board will address issues involving individual teams as soon as it becomes aware of each such issue.

The Board reserves the right to vary from the general policies established above to address the eccentricities of individual cases in its sole discretion.

Teams are reminded that they are required to report any positive test for a highly-infectious disease to the Board as soon as practicable.