

MSBA

High School Mock Trial COACHING MATERIALS

for the Teacher Coach

STRATEGIES FOR TEACHING ABOUT MOCK TRIAL PROCEDURES

1. Have students brainstorm the order of events in a mock trial and list them on one side of the blackboard. On the other side of the board, list the steps in a mock trial as they actually occur, noting any errors or omissions in the students' list as you do so.
2. Once the whole trial process has been introduced, have students make a list or brainstorm and write on the board the steps in a trial, first from the plaintiff/prosecution's point of view, (e.g., opening statement, direct examination of P/P's witnesses, cross-examination of defense witnesses and closing arguments). Do the same from the defense perspective.
3. Have students check newspapers and magazines for articles that mention a trial that is currently being conducted. Paste the articles to a large sheet of paper with the trial step which is mentioned in the article written in large letters at the top of the sheet. Have students post these around the classroom in their proper order.
4. Have students become familiar with the steps in a trial, the physical layout of a courtroom and the participants in a trial.
5. A courtroom visit is a good idea at this point (or after the group has begun working on the trial). Hold a debriefing session during the class period following the visit and/or have students write: What part(s) of the trial did you observe? What happened before the part(s) you observed? What happened in the trial after you left? List these on the board with the step of the trial that your group observed in the middle, and the "before" and "after" lists on either side.
6. Students should be instructed to watch a television program or see a movie having to do with a trial. Then they can discuss what the case was about, what parts of the trial they observed and whether the depiction of the trial procedure was accurate and realistic.
7. Invite a trial attorney or judge to the class to review basic trial procedure and describe different types of litigation, such as arbitration hearings, worker's compensation hearing, school board hearings and juvenile proceedings. Have the students discuss how and why do they differ from basic civil and criminal trial procedures.
8. After general trial procedure has been covered in class, distribute the mock trial materials that you plan to use and have the students read them thoroughly. At this point you can either assign the roles of the various trial participants or wait until you have covered the rules of evidence. (This also helps ensure that students will read all of the trial materials, instead of just reading those for their parts or sides of the case.)

GUIDELINES FOR TEACHERS

A. ROLE OF THE TEACHER

The teacher coach is expected to help the team members decide which students will play which parts in the mock trial, and to assist the students in playing those roles.

As part of the sizeable responsibility of acting as teacher coaches, teachers are responsible for the following areas:

1. Rules of the Program

All teachers and teams are expected to adhere to the rules, facts, law and all other materials provided in the Mock Trial Competition Case Materials. Please read the rules before doing anything else.

2. Role Assignments

Team members should be strongly encouraged to select roles based on their interests and abilities, not on the basis of any gender or cultural stereotypes which might be drawn from the characterizations in the fact pattern. Note that witnesses may be played by males or females. Be sure to consult the most current rules for the most current information on role assignments.

3. Team Preparation

Attorneys also will help coach each team. Teams should prepare both sides of the case and are strongly urged to arrange and conduct preliminary mock trials prior to meeting another school in the competition.

Preliminary trials only require one attorney to act as the presiding judge as it is not necessary to award points to the teams during these practice rounds. Your attorney coach may be able to help you obtain use of a courtroom, but classrooms or other facilities may also be used.

4. Education

Education of students is the primary goal of the Mock Trial Competition. Healthy competition helps to achieve this goal. However, teachers are reminded of their responsibility to keep the competitive spirit at a reasonable level. The reality of the adversary system is that one party wins and the other loses, and teacher should be sure to prepare their teams to be ready to accept either outcome in a mature manner. Teachers can help prepare students for either outcome by placing the highest value on excellent preparation and presentation, rather than winning or losing the trial.

5. Observers

Other classes, parents and friends of the participants are welcome to attend the trials.

6. Arrival Times

Teachers are responsible for getting their teams to the assigned courtrooms 15 minutes prior to the starting time of the trial.

SUGGESTIONS FOR TEACHER COACHES

This outline will provide you with some suggested guidelines for use in helping your student team prepare for the mock trial experience.

SUGGESTED PREPARATION TIME: 5-8 weeks of meeting several times/week

A. Find an attorney coach to work with your team:

1. While the Minnesota State Bar Association is available to help locate an attorney to coach a team in the competition, you, as a local teacher, are often the best judge of a suitable person to assist your team. Possible sources include: parents or relatives of students, alumni, acquaintances, local law firms, county attorney's office, school board members or local judges. (If you are unable to find an attorney to work with your team, contact the Mock Trial Program office at the MSBA.)

2. Since attorneys have time limitations, they should be used as consultants when their expertise is needed but do not need to be present at all team activities or practices. As a consultant, the attorneys should advise students, but should not author any portion of the team's trial materials.

3. Contact your attorney coach as soon as possible to:

- a. Invite him/her to attend the training workshop in your area.
- b. Provide him/her with a copy of the mock trial materials so s/he can become familiar with the case problem and rules of competition, evidence and procedure.
- c. Discuss the meeting times and places with students.
- d. Discuss the case and the attorney's suggestions regarding strategy and arguments for both sides.

B. Before meeting with your attorney coach:

1. Have the students learn the statement of facts and witness statements (in affidavits) as thoroughly as possible. You might try having the students quiz each other – one student looks at the facts and affidavits and asks the other student(s) questions; then reverse roles.

2. Try brainstorming with your students to elicit factual arguments for both the plaintiff/prosecution and the defense; i.e., which facts support the plaintiff's/prosecution's case and which facts support the defendant's case?

3. Have students try to string facts together to make a logical assumption about the case.

4. Have students read through the procedures for trial of civil/criminal cases, the simplified rules of evidence, and the mock trial rules. Discuss with your students and be sure to write down any questions they have for your attorney coach. For rules clarification, contact the Mock Trial Director at the Bar Association.

5. Conduct lessons designed to familiarize students with the court system and civil or criminal procedures. It will help your team if they observe a real trial before the mock trial. Contact the clerk of the district court in your county to find out when a trial is scheduled at the courthouse. The public is invited to attend these trials.

C. With your attorney coach, work on:

1. Knowledge of the facts, procedures, and mock trial rules.

2. Establishing a case strategy. The entire team should work together on this process. You should be sure that the attorney understands this his/her role is to serve as consultant to the students, not as a director or decision-maker for the team. The team members must be the ones who develop their own strategy for presenting the case.

The following are some points to consider when developing your team strategy:

a. Identify strengths of your case. These are the points and issues you will want to develop.

b. Identify critical weaknesses of your side and prepare a counter-argument for them.

c. Be sure all of your strategies are integrated. You should work as a team during the course of the trial. You must always know where you are headed.

d. Brainstorm to identify possible holes in your strategy so that there are no surprises. You must be prepared to cope with the unexpected.

e. Identify a key witness that you will want to exploit during cross-examination.

f. Realize that you don't necessarily need to use all of your allotted time if your strategy has been achieved.

g. While it is not necessary for mock trial purposes, you may wish to research cases cited as references in order to better understand the trial.

h. Other considerations:

- Which order to call witnesses
- Physical position in the courtroom
- How to use time wisely
- How to handle surprises

3. How to present the opening statement and closing argument, and what information each should contain. (Again, remember that the coaches may give students ideas, but should not write the statements for them.)

4. Questions to ask on direct and cross-examination of all plaintiff/prosecution and defense witnesses.

5. How to present a closing argument and what it should contain.

6. How to avoid asking objectionable questions and what to do if one of your questions is objected to.

7. How and when to object to the opposition's questions.

8. How to introduce exhibits and offer them into evidence.

9. Understanding and practicing courtroom decorum and good sporting behavior.

D. Before your first scheduled trial in the mock trial competition (if entered):

1. Practice the trial in full, including direct and cross-examinations, in front of your attorney coach or another local attorney or judge who is willing to sit in and offer suggestions.

2. Set up an invitational round (scrimmage) with another school, to give teams the full flavor of participating in a mock trial. Arrange for a local attorney or judge to preside, and conduct the trial in a courtroom setting, if possible. Participate in invitationals held by other schools. Consult the mock trial program website for information.

3. Observe a real trial in a county or district court.

4. Consider asking a speech or drama teacher to observe your team in action and offer suggestions for improving the students' presentations.

COURTROOM BEHAVIOR

- ❖ An important aspect of trial procedure, often overlooked in teaching about mock trials, is the courtroom decorum of the team. The following hints are intended to help mock trial participants understand some of the nuances of proper courtroom behavior:
- ❖ It is extremely important to be polite and show extreme courtesy towards the judge(s). The role of the judge in mock trials is to preside (make rulings on the procedures and objections) and to evaluate the performance of each participant. Students should remember that this role is the most important one in the courtroom, and act accordingly. Refer to the judge as "Your Honor." Accept any decision of the judge gracefully and politely, even if it is not in your favor.
- ❖ Courtroom etiquette also requires that you act courteously toward the opposing team before, during and after the trial. Be sure to shake hands and congratulate the other team on their performance.
- ❖ Be prepared to deal with the unpredictable, should something arise for which you are totally unprepared. If you are concerned that the rules may be violated, ask for a bench conference and be prepared to explain your concern. Always maintain your composure, even if you feel that the rug has just been pulled out from under you. (The movie "Suspect" may be a good example for students of how unpredictable things in a trial may be.)
- ❖ Emotions are not banned from the courtroom, however, they must be controlled emotions. It is okay (and may indeed even be part of your strategy) to be appropriately angry, indignant, puzzled, etc., but uncontrolled outbursts or wild theatrics are frowned upon by judges and may harm your case.
- ❖ Be sure to dress appropriately and remember to avoid wearing a hat or eating (including chewing gum) while in the courtroom.

**SOME OF THE THINGS MOST DIFFICULT
FOR TEAM MEMBERS TO MASTER**

- Deciding which points are the most important to prove the elements of the case and to make sure that proof takes place.
- Telling clearly what they intend to prove in the opening statement and arguing effectively in their closing argument that the facts and evidence presented prove their cases.
- Introducing documentary or physical evidence.
- Following the formality of the court, e.g., standing up when the judge enters or when addressing the judge, calling the judge "Your Honor," etc.
- Phrasing questions on direct examination that are not leading. (Carefully review the rules of evidence and watch for this type of questioning in practice sessions.)
- Refraining from asking so many questions on cross-examination that well-made points are lost. When a witness has been contradicted or otherwise discredited, student attorneys tend to ask additional questions, which often lessens the impact of points previously made. Pointless questions should be avoided! Questions should require answers that will make only good points for the side.
- Thinking quickly on their feet when a witness gives an unexpected answer, an attorney asks unexpected questions or makes unexpected objections, or a judge throws questions at the attorney or witness.
- Refraining from reading opening and closing statements.

SOURCE: Adapted from A Guide for Conducting Mock Trials in the Classroom, Citizenship Law-Related Education Program for the Schools of Maryland, 1984.