



FOR YOUTH DEVELOPMENT™
FOR HEALTHY LIVING
FOR SOCIAL RESPONSIBILITY

TRIAL COURT YOUTH JUDGES MANUAL

SECTION 1: JUDGE'S RESPONSIBILITIES

- Thoroughly know all of the "Simplified Rules of Evidence and Trial Procedure" and make sure they are strictly enforced
- Thoroughly know all objections: make sure you know definitions and know if any given question is objectionable
- Strictly enforce and maintain the rules of decorum
- Be early to your courtroom
- Appoint someone to be your bailiff (unless no one is available or one is provided for you)
- Be the trier of law, and trier of fact (if no jury present)
- Bring the courtroom to order, call the case, and begin the trial
- Swear in the witnesses
- Keep time, stop attorneys when they exceed their time limits, and make sure trial does not run overtime
- Evaluate and score all witnesses
- Rule on objections and admissibility of evidence
- Deliberated whether or not the Prosecution met the burden of proof, and then give the verdict (if time permits, can explain the basis for the decision)
- If, for whatever reason, the judge or a program section leader (or designee) stops a trial early, the judge is responsible for noting at what point, in the schedule and course of the trial, it was stopped

SECTION 2: COURTROOM DECORUM

DECORUM

- When the Judge ascends the bench, complete order should be observed.
- In addressing the Judge, attorneys should at all times stand and address the Judge from his position at counsel table, and should not approach the bench except with permission of or at the request of the Judge. While interrogating witnesses, the attorney shall remain seated at the counsel table except when permitted by judge to handle or display exhibits or to make objections.
- The Judge should be respectfully and properly addressed at all times, and all objections and legal arguments by counsel shall be directed to the Judge and not to opposing counsel.
- When the Judge addresses counsel, it should be done impersonally, as by "Counsel", rather than by first name. Counsel should also behave impersonally toward the Judge.
- Lawyers shall never lean on the bench or engage the Judge in a confidential manner, except at the request of the Judge.

Attorneys shall observe the following rules in the courtroom at all times:

- Remain seated at the counsel table during questioning, except when objecting, or granted permission to approach the bench.
- Rise when addressing the judge.
- Direct all remarks to the judge or witness, and never to opposing counsel.

SECTION 3: SCHEDULE and ORDER of TRIAL

Part I - TRIAL TIME LIMITS

- The trial **judge** is responsible for time keeping, making sure no one exceeds their time limits, and that the court room gets released on time.
- Whole trial shall **NEVER** exceed 75 minutes, from the scheduled start time.
- There will only be 15 minutes between rounds.
- Opening statements have a max of 2 minutes each per side.
- Closing arguments have a max of 3 minutes each per side.
- Max time for prosecution rebuttal is 1 minute (taken from their 3 minute closing).
- Each side has 15 minutes for direct exam and may divide between their witnesses as they choose, provided they call at least three witnesses for a minimum of 30 seconds each.
- Each side has 12 minutes to cross exam, to divide between the witnesses, provided they question all witnesses called for a minimum of 30 seconds each

Part II - ORDER OF TRIAL

1. Judge should also tell teams the rules of the court, ask for any questions before starting, and should swear in all witnesses. The **Judge** must call for order and announce that the Court is in session.

2. OPENING STATEMENTS:

Prosecution presents first.

Defense presents second, **or** after the prosecution presents their entire case.

PURPOSE of OPENING STATEMENTS: Introduction and acquaint the judge with the nature of the case and what is expected to be proven, i.e. - what the evidence will show.

3. EVIDENTIARY PHASE / WITNESS TESTIMONY:

(Prosecution should ask the Court to accept the stipulated facts as evidence.)

Direct examination of all Prosecution witnesses and cross examination by the Defense (optional redirect/recross upon request). Prosecution rests.

Direct examination of the Defense witnesses and cross examination by the Prosecution (optional redirect/re-cross upon request). Defense rests.

PURPOSE of DIRECT EXAMINATION: To present evidence which proves the team's position and warrants submission of case to court.

PURPOSE of CROSS EXAMINATION: To discredit the opponent's witnesses and secure admissions favorable to the questioner's side.

PURPOSE of REDIRECT/RECROSS: To rehabilitate a witness who has been discredited.

4. CLOSING ARGUMENTS:

Prosecution argument

Defense argument

Rebuttal by Prosecution (ONLY if time permits and is limited to scope of Defense argument)

PURPOSE OF ARGUMENT: To summarize the important facts of the case in the light most favorable their side. Should forcefully and dynamically urge their position in a clear and logical, persuasive argument. Highlight weakness of opponent's case.

5. DELIBERATION, VERDICT, AND ADJOURNMENT

Part III - SAMPLE PROCEDURE for DISTRICT COURT - CRIMINAL TRIAL:

JUDGE:

"The Court calls for Trial Case Number 11-123456 , the case of The State of Texas Vs. Don Coleson . Does the Defendant waive reading of the charges against him?"

DEFENDANT:

"Yes/no, your honor."

JUDGE:

"The State will read the charges/ Are both parties ready to proceed?"

(STATE READS CHARGES)

PROSECUTION:

(State Prosecuting Attorney announces his side is ready.) "The State is ready, your honor."

DEFENSE:

(Defendant's Attorney announces his side is ready.) "The Defense is ready, your honor."

JUDGE:

"The Court will hear opening statements on behalf of the State."

PROSECUTION:

Makes the opening statement.

JUDGE:

"Does the Defense wish to make an opening statement at this time, or wait until the conclusion of the State's case?"

DEFENSE:

Defense can make a statement now (or wait until the last witness for the Prosecution is excused).

"The Court will hear evidence on behalf of the Prosecution."

PROSECUTION:

The State's case is presented, witnesses called and physical evidence is introduced.

JUDGE:

(If Defense has not yet made an opening statement)

"The Court will now hear an opening statement from the Defense."

(If Defense has presented opening statement)

"The Court will hear evidence on behalf of the Defendant."

DEFENSE:

Defense case is presented, witnesses called and physical evidence is introduced.

JUDGE:

"The Court will hear closing arguments for the State."

PROSECUTION:

State's closing arguments.

JUDGE:

"The Court will hear closing arguments on behalf of the Defendant."

DEFENSE:

Defense closing arguments.

PROSECUTION:

(Rebuttal if requested and time permits)

JUDGE:

"The Court will be in recess until a verdict is reached."

(Returns, announces verdict, and adjourns)

COURT PROCEDURE for EXAMINING WITNESS

JUDGE:

(Administers oath to the witness, if not sworn in with all witnesses at beginning of trial)

JUDGE:

(To attorney offering witness) "You may proceed to examine your witness."

ATTORNEY:

(Questions the witness)

JUDGE:

(To opposing attorney) "Cross-Examination"

ATTORNEY:

(Cross-examines the witness.)

JUDGE:

(To attorney offering witness) "Redirect?"

JUDGE:

(To opposing attorney ONLY IF opposing team redirects) "Recross?"

JUDGE:

(To witness) "You may be excused."

JUDGE:

(To attorney) "You may call your next witness."

NOTES

Attorneys should signify when they are finished questioning a witness by saying "Pass the witness."

SECTION 4: OBJECTIONS (DEFINITIONS and EXAMPLES of USAGE)

*Indicates no argument from either counsel. Judge rules immediately after objection is made.

***LEADING QUESTION**

Definition: A question that suggests the answer is leading and not permissible on direct examination. The other forms of leading questions: A) when part of the question is concrete and detailed and the other part vague, and B) when a question describes an incident in detail and asks if this happened. (Natural inference is the affirmative answer.)

(Test: Whether a reasonable man would get the impression that the examiner desires one answer rather than another.) **Leading questions can and should be used on cross exam!**

Permissible Leading Questions:

- To reasonably refresh recollection.
- Hostile Witness: Where party has to call a hostile witness, **and** is declared hostile by judge.
- Handicapped Witness: Difficulty in self-expression, ignorant, young, aged, timid, weak-minded, infirm, and embarrassed.
- Preliminary foundational matters (such as identifying an object).
- Cross-examination: Leading questions are permissible on cross-examination!

Examples:

Leading:

"Ms. Baker, did you then see George Smith pick up the gun and shoot Linda in the back?"

"Did she not put the money in her pocket?"

"Was the sound like the scream of a woman in fear or was it otherwise?"

Non Leading:

"Ms. Baker, tell the Court, what if anything, you saw Mr. Smith do."

Form: "I object on the grounds that the question is leading."

***NARRATIVE**

Definition: An open-ended question that is too broad in scope and allows the witness to add additional information not asked in the question. This objection is in the nature of "irrelevant," in that a question inviting a narrative answer (too broad) allows the witness to inject irrelevant and otherwise inadmissible matter (such as incompetent evidence where no proper foundation has been laid). Each question should limit the witness to a specific answer. However, the judge has the discretion to permit narrative questions in special circumstances.

Note: This objection is applicable, though rarely invoked, to questions asked on cross-examination.

Examples:

"What happened the next day?"

"What occurred after Mr. Jones' arrival?"

"What do you know about this accident?"

Form:

"I object on the grounds that the question calls for a narrative answer."

"I object on the grounds that the answer has become narrative."

***NONRESPONSIVE / OUTSIDE (or BEYOND) the SCOPE of the QUESTION**

Definition: When the witness does not answer the question asked, **OR** an answer that goes beyond the scope of the question and includes subject matter not called for by the question (any voluntary statements by a witness).

Note: An answer is not necessarily non-responsive simply because it is unexpected or broader than anticipated. Rather, it contains information that is not confined to the question asked to the witness. Ordinarily, this motion is invoked only by counsel conducting the examination. Opposing counsel should state a different objection, i.e., "hearsay", "opinion", etc.

Form:

"I object on the grounds that the witness is nonresponsive, and ask the court to instruct the witness to answer the question."

"I object on the grounds that the witness' answer contains information not asked in the question, and move that the answer be stricken from the record."

COMPOUND / MULTIFARIOUS QUESTION

Definition: A question that contains two or more questions and each require a different answer.

Examples:

"Mr. Jones, did you, or did anyone else, talk to Mrs. Smith at that time?"

"Did Mrs. Brown type this letter in your presence and call Mr. Blue on the phone regarding this transaction?"

"Ms. Baker, did you or anyone else see George Smith shoot Linda?"

Form: "I object on the grounds that the witness has been asked a compound question."

AMBIGUOUS or UNINTELLIGIBLE:

Definitions:

Ambiguous: Equivocal, uncertain; capable of being understood in two or more possible senses.

Unintelligible: Not capable of being understood.

Example:

"After the cat caught the mouse, did it die?"

Form:

"I object on the grounds that the question is ambiguous."

"I object on the grounds that the question could be interpreted in multiple ways."

"I object on the grounds that the question is not easily understood, or does not make sense."

IMPROPER CHARACTER TESTIMONY

Definition: Evidence regarding a witness' character is never admissible, unless: A) it relates to the witness' character of truthfulness or untruthfulness, or B) evidence about a conviction of a crime by the witness

Form: "I object on the grounds that the witness character is not in question."

ASKED and ANSWERED / REPETITIVE

Definition: The purpose of the question is to persuade the trier of fact rather than elicit information. The question calls for no new facts, but only asks the witness to agree to conclusions drawn by the questioner. This objection should be used when the question or answer has already been put into evidence. There is more liberality given for repetition on cross exam.

Form:

"I object on the grounds that the witness has already been asked and has answered the question."

IRRELEVANT

Definition of Relevance: Evidence which influences the issues, having probative value in proving a fact; that which tends to render probable a certain inference important in the case.

-All evidence (verbal or physical) must be relevant. However, relevant evidence may be excluded for other reasons (hearsay for example).

-Generally, the problem of relevancy lies with circumstantial rather than direct evidence.

-Circumstantial evidence is evidence which to any reasonable degree tends to establish the probability or improbability of fact in controversy. Circumstantial evidence tends to prove or disprove a fact from which an inference can be drawn concerning an ultimate fact in controversy. All evidence must have probative value in proving a fact or to influence the issues of the case. (Common kinds of relevant circumstantial evidence: Habit (requires a foundation if there is no direct evidence for the matter); custom (show parties knew the cultural customs; similar acts and occurrences (including other crimes), flight, concealment, etc. (these kinds of evidence inferences concerning ultimate issues are drawn, such as motive, knowledge, intent, identity, absence of mistake, common scheme, guilt, mental state, etc.))

-Relevancy may depend on existence of a preliminary fact (laying a foundation).

-The court must weigh conflicting values where there is a relevant issue, but tends to be unduly prejudicial in its effect.

Form: "I object on the ground that the question calls for an irrelevant answer."

"I object on the grounds that the answer contains irrelevant material, and I ask that it be stricken from the record."

ARGUMENTATIVE

Definition: Questions that attempt to elicit an argument and do not ask for any new information, and only asks the witness to agree to conclusions drawn by the questioner. The purpose of the question is to persuade the trier of fact rather than to elicit information. The

question calls for an argument in response to an argument contained in the question.
Cross-examination: The court, in its discretion, may allow argumentative questions on cross-examination.

Examples:

"You're not telling the truth, are you?"

"How can you remember what happened on October 10 when you cannot remember anything on the 11th or 12th?"

"Can you tell this court what you mean so that we will know what you are talking about?"

Form: "I object on the grounds that the question is argumentative."

SPECULATION / LACK OF PERSONAL KNOWLEDGE / OPINION of a LAY WITNESS / OUTSIDE the SCOPE OF EXPERTISE

Definition: A witness may base his answer on personal knowledge but may not base it on speculation. A witness may testify to facts based on his own personal knowledge, but may not base answer, in any event, on speculation. "I guess," "I think," "I suppose" statements are never permitted.

Lay Witness: A lay witness can **only** give opinion as to matters he has personally perceived, **and** the matter must be within common experience of non-experts (speed, size, etc.). They may not base their opinion on ambiguous matters not within common experience of lay persons, as this is speculation.

Expert Witness: An expert witness' opinions related to their field of expertise are permitted. They may state opinions even if he has no personal knowledge of facts (information may be relayed to him). If the data on which he bases his opinion includes so many uncertain and varying factors that he is required to guess, it is speculative.

Example:

"Ms. Baker, is it possible that Linda threatened Smith before he shot her?"

"Is it possible, Mr. Jones, that there were other conversations?"

Form:

"I object on the grounds that the question calls for speculation by the witness."

"I object on the grounds that the question is outside the scope of the witness' expertise."

"I object on the grounds that the question calls for an answer that the witness lacks personal knowledge of."

"I object on the grounds that the answer has become speculative, and ask that it be stricken from the record."

"I object on the grounds that the answer contains speculation, and ask that it be stricken from the record."

HEARSAY

Definition: Hearsay is testimony as to what someone said, other than while testifying in court (an extra-judicial statement), offered as proof of the truth of the matter asserted. Hearsay can be verbal, written, or non-verbal (signal such as the nod of the head). Any means used as a substitute for speaking where there is intent to communicate can be hearsay.

(next page)

Generally, conduct must be assertive to be hearsay; i.e., must be intended to be a substitute for verbal communication. However, sometimes non-assertive conduct is considered as hearsay. Any evidence of a statement made by someone who is not present in the court which is offered to prove the truth of a fact, a piece of evidence, or any witnesses' testimony, is hearsay and not usually permitted. However, several exceptions apply.

Note: To help understand the concept of hearsay and the exceptions to the rule:

-General exception: Testimony as to what someone said outside of court offered simply to prove that the words were, in fact, spoken (verbal acts) is not hearsay. This kind of evidence is utilized as follows: To prove state of mind (may be excluded if judge believes surrounding circumstances show intent to misrepresent), knowledge or motive of declarant; to show declarant was conscious; to show effect on person who heard (as, for example, when proving probable cause for arrest when officer proceeds on basis of conversation he has heard or that have been related to him); to prove verbal acts such as slander, terms of an oral contract, etc. The critical question in determining whether an out-of-court statement is hearsay: What is the purpose for which the statement is offered?

-Exceptionally Admissible Hearsay: Certain hearsay statements are admissible because the circumstances surrounding utterance indicate they are sufficiently trustworthy to be considered by the trier of fact. In addition, in some instances there is the additional factor of necessity (for example, where a witness is unavailable).

Non Hearsay:

-Prior statements made by the witness themselves is not hearsay.

-Admissions made by the party opponent are not considered hearsay.

General Rule: Inadmissible unless within one of the recognized exceptions:

Hearsay Exceptions:

ATTORNEYS MUST STATE ONE OF THE EXCEPTIONS BELOW

For purposes of the mock trial, the following exceptions to the hearsay rule will apply:

Present sense impression – A statement describing or explaining an event or condition made at the time the person making the statement was perceiving the event or condition

Excited utterance- A statement describing or explaining an event or condition made while the person making the statement was under the stress of excitement caused by the event or condition,

Dying Declarations- A statement made by a declarant while believing that the declarant's death was imminent, concerning the cause or circumstances of what the declarant believed to be the cause of declarant's impending death.

Medical Statements- Statements made for the purpose of medical diagnosis or treatment.

Recorded recollection- A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable the witness to testify fully and accurately and shown to have been made or adopted by the witness when the matter was fresh in the witness's memory and to reflect that knowledge correctly.

Records of a regularly conducted activity- Any type of data compilation in any form if kept in the course of a regularly conducted business activity and it was the regular practice of that business activity to make the data compilation. Business activity includes any type of business, whether or not for profit, as well as the records compiled by public officers or agencies or immediately thereafter.

Learned treatises- To the extent called to the attention of an expert Witness upon cross examination or relied upon by the expert witness in direct examination, statements contained in public treatises, periodicals or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness, or by other expert testimony, or by judicial notice.

Form:

"I object on the ground that the question calls for hearsay."

"I object on the grounds that the witness' answer contains hearsay, and I ask that it be stricken for the record."

Sample Evaluation Forms



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WITNESS EVALUATION

Witnesses for: Prosecution Defense

Return to Trial Court Headquarters immediately after trial!

Round #: _____
 Courtroom #: _____
 Student Judge #: _____
 Evaluator #: _____
 Teams competing:
 (P) _____ vs. (D) _____

Judge Name: _____ Judge #: _____ Trial Team # _____

1 = Poor 2 – 3 = Fair 4 – 6 = Good 7 – 8 = Above Average 9 – 10 = Outstanding

Witness #1

Witness portrayed: _____ Student's name: _____

Knowledge of Witness Statements	1	2	3	4	5	6	7	8	9	10
Ability to Handle Questions on Direct	1	2	3	4	5	6	7	8	9	10
Ability to Handle Questions on Cross	1	2	3	4	5	6	7	8	9	10
Believability	1	2	3	4	5	6	7	8	9	10
Performance of Character	1	2	3	4	5	6	7	8	9	10
Demeanor on Witness Stand	1	2	3	4	5	6	7	8	9	10
Speaking Ability	1	2	3	4	5	6	7	8	9	10

Total: _____

Witness #2

Witness portrayed: _____ Student's name: _____

Knowledge of Witness Statements	1	2	3	4	5	6	7	8	9	10
Ability to Handle Questions on Direct	1	2	3	4	5	6	7	8	9	10
Ability to Handle Questions on Cross	1	2	3	4	5	6	7	8	9	10
Believability	1	2	3	4	5	6	7	8	9	10
Performance of Character	1	2	3	4	5	6	7	8	9	10
Demeanor on Witness Stand	1	2	3	4	5	6	7	8	9	10
Speaking Ability	1	2	3	4	5	6	7	8	9	10

Total: _____

Witness #3

Witness portrayed: _____ Student's name: _____

Knowledge of Witness Statements	1	2	3	4	5	6	7	8	9	10
Ability to Handle Questions on Direct	1	2	3	4	5	6	7	8	9	10
Ability to Handle Questions on Cross	1	2	3	4	5	6	7	8	9	10
Believability	1	2	3	4	5	6	7	8	9	10
Performance of Character	1	2	3	4	5	6	7	8	9	10
Demeanor on Witness Stand	1	2	3	4	5	6	7	8	9	10
Speaking Ability	1	2	3	4	5	6	7	8	9	10

Total: _____

OFFICE USE ONLY			
Witness #1	Witness #2	Witness #3	Average Score



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Round #: _____
 Courtroom #: _____
 Student Judge #: _____
 Evaluator #: _____
 Teams competing:
 (P) _____ Vs. (D) _____

TRIAL COURT STUDENT JUDGE EVALUATION

(Please ask student judge to print information below before trial.)

Judge Name: _____ Judge Number: _____

Round Number: _____ Courtroom Number: _____

Evaluator Name: _____ Evaluator Number: _____

EVALUATOR: PLEASE PRINT NAME AND FILL OUT THIS FORM COMPLETELY.
 CIRCLE A NUMBER ON THE SCALE TO RATE STUDENT JUDGE ON THE LISTED CRITERIA.

1 = Poor 2 – 3 = Fair 4 – 6 = Good 7 – 8 = Above Average 9 – 10 = Outstanding

Knowledge of Trial Procedure	1	2	3	4	5	6	7	8	9	10
Knowledge of Evidence Rules	1	2	3	4	5	6	7	8	9	10
Knowledge of Objections	1	2	3	4	5	6	7	8	9	10
Knowledge of the Law	1	2	3	4	5	6	7	8	9	10
Demeanor	1	2	3	4	5	6	7	8	9	10
Interaction with Trial Participants	1	2	3	4	5	6	7	8	9	10
Decision Making Ability	1	2	3	4	5	6	7	8	9	10
Maintains Control of Courtroom and Trial	1	2	3	4	5	6	7	8	9	10

TOTAL POINTS: _____
 (Maximum Points = 80)

Comments: _____

ATTORNEY TEAM EVALUATION FORM

Prosecution **Defense**

Attorney #1: _____

Attorney #2: _____

School/District: _____

Evaluator Name: _____

Round #: _____
Courtroom #: _____
Student Judge #: _____
Evaluator #: _____
Teams competing:
(P) _____ **Vs. (D)** _____

EVALUATOR: PLEASE PRINT NAME AND FILL OUT FORM COMPLETELY. CIRCLE A NUMBER ON THE SCALE TO RATE THE ATTORNEYS. PLEASE RETURN TO OFFICE WHEN TRIAL IS OVER.

1 = Poor 2 – 3 = Fair 4 – 6 = Good 7 – 8 = Above Average 9 – 10 = Outstanding

Opening Statement <small>(Content, Delivery, Effectiveness, Inform the Court of what you intent to prove/disprove)</small>	1	2	3	4	5	6	7	8	9	10
Attorney #1 Direct Exam <small>(Attorney Handled Friendly and Hostile Witnesses)</small>	1	2	3	4	5	6	7	8	9	10
Attorney #2 Direct Exam <small>(Attorney Handled Friendly and Hostile Witnesses)</small>	1	2	3	4	5	6	7	8	9	10
Attorney #1 Cross Exam <small>(Effective, Assertive, Shows Bias of Witness, Impeaching Testimony)</small>	1	2	3	4	5	6	7	8	9	10
Attorney #2 Cross Exam <small>(Effective, Assertive, Shows Bias of Witness, Impeaching Testimony)</small>	1	2	3	4	5	6	7	8	9	10
Use of Exhibits and Evidence <small>(Exhibits marked, offered & entered into evidence, Effective use of exhibits)</small>	1	2	3	4	5	6	7	8	9	10
Knowledge of Trial Procedure <small>(Knowing of schedule of the trial, rules, and proper procedures)</small>	1	2	3	4	5	6	7	8	9	10
Objections <small>(Relevant, Effective, Ability to Respond to Objections, Not Unfairly Excessive)</small>	1	2	3	4	5	6	7	8	9	10
Overall Demeanor <small>(Interaction with Judge and Opposing Counsel, Rapport with Witnesses, Standing when addressing the Court, Posture)</small>	1	2	3	4	5	6	7	8	9	10
Preparation <small>(Organization, Prepared Use of Facts, Utilization of Time, Teamwork)</small>	1	2	3	4	5	6	7	8	9	10
Closing Argument <small>(Organization, Persuasiveness, Effective use of Rebuttal, Effective Review of Trial Proceedings)</small>	1	2	3	4	5	6	7	8	9	10

Total: _____
 (Max score is 110)

Comments: _____

OFFICE USE ONLY

Attorney Total: Witness Average:
Team Score: Checked by: _____