



| Competitions

Foundations of Law Moot Rules

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Macquarie University Law Society Foundations of Law Moot Rules

1. Teams

- 1.1. Students who are completing either their LLB or JD at Macquarie University, and are in their first year of law are eligible to compete in this moot.
- 1.2. A “*first year*” student is defined in these rules as a student who is either currently completing, or has completed the LAWS1000 Foundations of Law unit, and has not completed any law units other than LAWS1100 Law, Lawyers and Society.
- 1.3. Team members will be ineligible to compete if they have completed a law degree or equivalent qualification for legal practice in any jurisdiction, prior to undertaking the LAWS1000 unit.
- 1.4. Teams shall consist of two (2) to four (4) students.
- 1.5. Each team must consist of two (2) counsel. Any remaining member(s) can partake as instructing solicitors.
- 1.6. Teams may rotate the roles (counsel or instructing solicitor) that each competitor holds for each round.
- 1.7. Upon registering, teams may only change their members at a time prior to the last preliminary round. This may only be done in exceptional circumstances and at the discretion of the relevant Executive (Competitions - Foundations).
- 1.8. There shall be a maximum of thirty-two (32) teams for the Foundations of Law Moot.
- 1.9. Competitors must not have been blacklisted on the MULS competitions database.

2. Competition Structure

- 2.1. The Foundations of Law moot shall consist of three (3) preliminary rounds, as well as a Semi Final, and Grand Final round.
- 2.2. At the discretion of the Competitions Department, the Finals Rounds may be expanded to include a Quarter Final round. The decision will take into consideration the number of teams that compete. A Quarter Final will be held if at least ten (10) teams remain at the conclusion of the preliminary rounds. Competitors will be made aware of this as soon as the decision to hold a Quarter

Final round is made.

2.3. Preliminary Round Procedures

- 2.3.1. Teams will be allocated their opposing team by random draw.
- 2.3.2. Teams will be allocated to appellant/applicant or respondent positions by random draw. Where possible, teams will have to swap from appellant/applicant to respondent positions between preliminary rounds one (1) and two (2).
- 2.3.3. Eight (8) teams will progress to the Quarter Finals (if there is one). Four (4) teams will progress to the Semi Finals. Two (2) teams will progress to the Grand Finals.
- 2.3.4. Selection for the teams that proceed from the preliminary rounds to the final rounds will be determined by the Evaluation Process outlined below.

2.4. Explaining the Evaluation Process

Tier One of the Evaluation Process

- 2.4.1. Tier one involves determining the win-loss ratio of every team that has competed.
- 2.4.2. For example, a team who wins three (3) of the three (3) preliminary rounds will have a one hundred per cent (100%) win-loss ratio. A team who wins two (2) of the three (3) preliminary rounds will have a sixty-six per cent (66%) win-loss ratio. A team who wins one (1) of three (3) preliminary rounds will have a thirty-three per cent (33%) win loss ratio. A team who wins no rounds will have a zero per cent (0%) win-loss ratio. Notwithstanding special circumstances, a team that forfeits or does not compete in a round will be considered to have lost that round.

Tier Two of the Evaluation Process

- 2.4.3. Tier two involves determining the mean margin score (“MMS”) that each team has accumulated. This is calculated as the average margin of points by which a team won or lost. A team that wins a round will receive a positive score for that round. The losing team of that same round will receive a negative score. At the end of the preliminary rounds, the average margin will be calculated.
- 2.4.4. For example, if a team wins round one (1) by ten (10) points they will have a marginal score of positive ten (+10). If that team wins the second round by five (5) points, their aggregate marginal score by the end of round two (2) will

be positive fifteen (+15). If the same team loses round three (3) by six (6) points, their aggregate marginal score will be positive nine (+9). That number will be divided by three (3 rounds), creating their MMS. Therefore, their MMS will be three (3). Unless if the circumstances call for otherwise, a team that does not compete, including those who forfeited, in a round will be considered to have a score of triple (3x) the negative of the absolute value of the average marginal score in that round.

- 2.4.4.1. For example: if Team A has forfeited round one, where the average marginal score was calculated to be +10, then Team A will receive a marginal score of -30 [3 x -(+10)] for Round 1. This is to hinder teams from forfeiting any round without a reasonable cause.

2.5. Applying the Evaluation Process

NB: The following rules are written assuming there is a Quarter Final round. If not, then the same process will apply to select four (4) teams to proceed to the semifinal round.

- 2.5.1. In the event of there being exactly eight (8) teams with the highest win-loss ratio, according to tier one of the Evaluation Process, these eight (8) teams will proceed to the Quarter Finals automatically.
- 2.5.2. In the event of there being LESS than exactly eight (8) teams with the highest win-loss ratio, the teams that proceed to the Quarter Finals will be selected according to the following process:
- 2.5.2.1. The team(s) with the highest (100%) win-loss ratio will automatically proceed through to the Quarter Finals pursuant to tier one of the Evaluation Process.
- 2.5.2.2. The team(s) with the second highest (66%) win-loss ratio will be ranked according to their MMS (tier 2). The highest-ranking teams will proceed.
- 2.5.2.3. If, by the end of 2.5.2.2, there has been less than 8 teams qualifying into the quarter-finals, then the team(s) with the third highest (33%) win-loss ratio will be ranked according to their MMS (tier 2). The highest-ranking teams will proceed.
- 2.5.2.4. If, by the end of 2.5.2.3, there has been less than 8 teams qualifying into the quarter-finals, then the team(s) with the fourth highest (0%) win-loss ratio will be ranked according to their MMS (tier 2). The highest-ranking teams will proceed. This process will only go on until eight (8) teams qualify for the quarter-finals (if any), or until four (four)

teams for the semi-finals.

2.6. Where a team faces an opponent team that has forfeited the moot, or faces no opponent at all, that team will moot *ex parte*. The score that this team receives in the *ex parte* moot will be compared to the average score for that round. The team wins if the *ex parte* score is greater than the average score, but loses if vice versa.

2.7. Finals Procedures

NB: The following rules are written assuming there is a quarter final round. If not, then the same process will apply but to determine which four (4) teams progress to the semi final round and beyond. Rules 2.7.3-5 will not apply.

2.7.1. The teams proceeding from the preliminary rounds to the Finals will be announced after the conclusion of the preliminary rounds, and once the proceeding teams have been approved according to the above process by the Competitions Department.

2.7.2. The eligible Final teams will be ranked according to tiers one and two of the scoring system. The draw for the first round of the Finals will be determined by 'folding' the rankings. For example, Team one (1) will verse Team eight (8), Team two (2) will verse Team seven (7) and so on. If there is no quarter final round, Team one (1) will verse Team four (4), Team two (2) will verse team three (3).

2.7.3. The Quarter Finalists will be allocated to appellant/applicant or respondent positions by random draw.

2.7.4. The winning team from each Quarter Final will advance to the Semi Final Round.

2.7.5. The Semi Final teams will be ranked according to their marginal scores in the Quarter Final rounds. The draw for the Semi Finals will be determined by 'folding' the rankings. For example, Team one (1) will verse Team four (4) and Team two (2) will verse Team three (3).

2.7.6. The Semi Finalists will be allocated to appellant/applicant or respondent positions by random draw.

2.7.7. The winning team from each Semi Final will advance to the Grand Final Round.

2.7.8. Where the winning teams from each Semi Final were allocated different sides, the teams will swap sides for the Grand Final. For example: if Team A acted for the Appellant in the Semi Final and Team B acted for the

Respondent, Team A will represent the Respondent and Team B will represent the Appellant in the Grand Final.

2.7.9. Where the winning teams from each Semi Final were allocated the same side, the team with the higher MMS across the Quarter Final and Semi Final rounds shall decide whether that team retains or swaps their Semi Final side.

2.7.9.1. Where the winning teams were allocated the same side and have the same MMS across the Quarter Final and Semi Final rounds, the side to swap shall be decided based on a coin toss between the Director (Competitions) and the Executive Officer.

3. Release of Questions

3.1. There is one (1) question in total for all the rounds of the Foundations of Law Moot. There will be one (1) question for the Preliminary Rounds, and that question may be expanded in the Final Rounds to incorporate additional legal issues.

3.2. Questions are released at least seven (7) calendar days prior to the commencement of each round.

3.3. Questions for all rounds will be emailed to the team contact as provided upon registration.

3.4. The question will be based on Australian public law and will focus on knowledge developed in the Foundations of Law course.

3.5. The question will be provided to an appropriate member of the Macquarie Law School involved in the administration of the LAWS1000 - Foundations of Law course to ensure compliance with rule 3.4.

4. Preparation and Research

4.1. All research and preparation for the moots will be conducted solely by the team members of each team.

4.2. The Competitions Department retains the sole discretion to disqualify from the competition any team receiving outside assistance.

4.3. The jurisdiction of the moot will be that specified by the Competitions Department for the given problem.

4.4. Where a list of recommended materials is provided with the question, any indication that that list is exhaustive has power as if it were contained in this rule.

4.5. Where issues of legislation are to be argued, this will be specifically referred to in the moot problem or list of materials. Otherwise, argument is limited to the common law only.

5. Judging

5.1. Number of Judges

5.1.1. The preliminary rounds are heard by one (1) or more judges, depending on availability.

5.1.2. The Quarter Final rounds are heard by one (1) or more judges, depending on availability.

5.1.3. The Semi Final rounds are heard by two (2) or more judges, depending on availability.

5.1.4. The Grand Final round will be heard by three (3) to five (5) judges, depending on availability.

5.2. Judges will be judges, magistrates, legal academics, legal practitioners from the NSW Law Society or Bar Association, previous law students with demonstrated success or experience in mooting; or

5.3. Current students who:

5.3.1. Have been a Semi Finalist or Grand Finalist in the Foundations of Law moot; or

5.3.2. Have mooted in at least three (3) Foundations of Law moot rounds AND at least three (3) rounds of Junior Mooting; or

5.3.3. Have mooted in at least six (6) Junior Mooting rounds; or

5.3.4. Have mooted in at least the Quarter Final of a Junior Mooting round; or

5.3.5. Have mooted in at least three (3) Senior Mooting Rounds; or

5.3.6. Have mooted in an external competition as representative of, and sanctioned by, MULS

5.4. Judges must also have no substantive conflict of interest.

5.4.1. A substantive conflict of interest, for the purposes of this section, includes judges that are relatives of the competitor, have previously coached the

competitor in any competition, who have previously competed with the competitor, and any other substantive reason.

- 5.4.2. Appeals may be made to the Competitions Department in relation to conflicts of interest under section 5.4, in line with the current Appeals and Forfeiture Policy.
- 5.5. Judges shall be provided with the moot question and submissions of both teams. A marking schedule will also be provided to all judges. Teams are strongly advised to have regard to the marking criteria when preparing for the moots.
- 5.6. Each team's score will be submitted to the Director (Competitions), the Executive Officer or any other person nominated by the Competitions Department.
- 5.7. Teams will be notified after the end of each preliminary round whether they won or lost the moot in that round.
- 5.8. No scores or rankings will be released until such a point in time as the Competitions Department decides.
- 5.9. If there is more than one (1) judge judging the round they must come to a consensus as to the winner.
- 5.10. If there is more than one judge judging the round, they must complete one (1) marking schedule only between them.

6. Written Submissions

- 6.1. In each round, each team must submit a soft copy of their written submissions by email to foundationcomps@mul.s.org as well as their opposing team contact, in .pdf format.
- 6.2. Written submissions by the competitors are due at 5:00pm on the day before the scheduled moot. Competitors are encouraged to send it before the due date to allow for technical difficulty.
- 6.3. All submissions received after 5:00pm will lose five (5) points from the written submissions mark per half hour. The judge(s) for that round will be notified of the requirement to deduct marks from the offending team when allocating marks at the end of the round. There is no discretion to dispense with this rule.
- 6.4. Submissions that are received more than 60 minutes late (past 6:00pm) will not be accepted and that team shall be deemed to have forfeited.

6.5. Each team MUST print three (3) hard copies of their submissions and bring them to the moot for the judges and opposing side if necessary.

6.5.1. The requirements stipulated in rule 6.5 may be dispensed with for online mooted rounds.

6.6. Length of Submissions

6.6.1. During the Preliminary rounds, written submissions must not exceed two (2) pages in length.

6.6.2. For the Final rounds, submissions must not exceed four (4) pages.

6.6.3. Submissions must be typed in no less than 11 pt using Times New Roman, with margins of no less than 2 cm.

6.6.4. Written submissions must be provided in .pdf format.

7. Oral Presentation

7.1. Only counsel may address the court during the moot.

7.2. Counsel shall not interject under any circumstances while a member of the opposing team is speaking.

7.3. The role of the instructing solicitor is limited to aiding in research and providing assistance to counsel during the moot. It is at the discretion of the judge whether counsel may consult team members during the moot.

7.4. During the preliminary rounds for both competitions, after a formal introduction, each team will have a maximum of twenty (20) minutes to present their case, with each counsel speaking for not less than eight (8) minutes. Therefore, teams must speak for at least sixteen (16) minutes.

7.5. In the final rounds of the competition, after a formal introduction, each team will have a maximum of thirty (30) minutes to present their case, with each counsel speaking for not less than ten (10) minutes. Therefore, teams must speak for at least twenty (20) minutes.

7.6. The division of time between counsels must be specified in the written submissions.

7.7. Judges may grant an extension of time at their discretion to each speaker.

7.8. The applicant/appellant may be granted a right of reply for a maximum of two (2) minutes at the discretion of the judging panel. These two (2) minutes are part of

the thirty (30) minutes of maximum time allocated to the applicant/appellant.

- 7.9. Penalties may apply if either counsel exceeds their allocated or extended time without the express permission of the judging panel.
- 7.10. Nothing may be handed up to the judges.
- 7.11. If counsel arrives, without reasonable cause, later than fifteen minutes after the time the moot is scheduled to start, that counsel's team shall be deemed to have forfeited.

8. Rooms, times and locations

- 8.1. Rounds will take place at the Macquarie University North Ryde Campus and any other room scheduled from time to time in the Sydney CBD.
- 8.2. The Competitions Department will make every effort to ensure that each team competes at their preferred time and venue.
- 8.3. Competitors must make themselves available to compete at all locations.
- 8.4. Locations, dates and times for all rounds will be announced as early as possible.

9. The Competitions Department

- 9.1. The Competitions Department consists of the Director (Competitions), and all relevant Executive Officers.
- 9.2. The Competitions Department shall determine questions and the draw for each round except where provided otherwise by these rules.
- 9.3. Any serious breaches of these rules may result in a ban from current and future MULS competitions at the discretion of the Competitions Department.
- 9.4. On a matter relating to the conduct and outcome of the Foundations of Law Mooting Competition, the decision of the Competitions Department is final.

10. Breaches of Rules

- 10.1. Teams that believe that a competitor has breached any of these rules should notify the Director (Competitions) and/or the relevant Executive Officer of the Foundations Competition.