



Official Rules



ONTARIO BAR ASSOCIATION
L'ASSOCIATION DU BARREAU DE L'ONTARIO
A Branch of the Canadian Bar Association
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FINAL VERSION
FOR 2019 TOURNAMENTS

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Part 1. Teams

Eligibility

1. Eligibility of Students

The OOCMT program is open to full-time Ontario high school students from all grades (9-12).

2. Restrictions on Participation

There is no restriction on students competing in multiple years, though schools or school boards may choose to operate their own internal system of eligibility (e.g. only grade 11 and 12 students, etc.).

Core Team and Alternates

3. Core Team

The “core team” must be composed of either six, seven, or eight students. The core team comprises the students who will normally play lawyers and witnesses in the mock trial rounds. In a round, there are roles for six students: four lawyers and two witnesses. Therefore, on teams with only six core team members, all team members will play in all rounds. On teams with seven or eight core team members, some members will play in all rounds, while some will only play when the team plays Crown or when the team plays defence.

4. Alternates

Teams may register three additional students as alternates. These students will step in to a role if a member of the core team is not able to participate on the day of an event. This includes when a core team member cannot attend a tournament at all, or when a member has to withdraw from a competition part-way through. If a team alternate substitutes for a core team member, tournament organizers must be informed and approve the substitution prior to commencement of the mock trial round.

Team Line-Ups

5. Composition of Line-Ups

Teams must prepare to play both Crown and defence. Teams must establish two “line-ups”: one for Crown, and one for defence. The two line-ups will be listed on a team’s roster. On each line-up are roles for four lawyers, and two witnesses.

The following rules apply to each line-up:

1. Four students must play lawyers on each line-up.
2. Each lawyer on a line-up must examine one witness, either on direct examination or cross-examination.
3. In addition to examining one witness, one of the four lawyers on a line-up must also deliver the opening statement, and another of the four lawyers must make the closing arguments. The same lawyer cannot do both the opening and the closing.

6. Flexibility between Line-Ups

Students may switch between playing lawyers and playing witnesses when they switch line-ups. For example, a student who plays a lawyer for the Crown may play a witness for the defence, etc.

Because teams can have six to eight core members, teams of six members will have all members on both line-ups. Teams with seven or eight members will have some students on both line-ups and some students who are only on one, but a team can never have all their team members on only Crown or only defence line-ups: some members must be on both.

7. Line-Up Violations

The line-up rules exist to ensure a measure of equality between team members, so that one “star player” cannot do too many things: teams must make a team effort, and be judged accordingly.

Teams must make strategic decisions and trade-offs in determining who does what on a line-up. Violations of the line-up rules are seriously prejudicial to other teams which may have made sacrifices to follow the rules. Therefore, failure to follow the line-up rules is very likely to lead to a team’s disqualification from the tournament.

Team Rosters and Substitutions

8. Rosters

Teams will submit a team roster on a standard form, with the names of core team members and alternates in advance of their first tournament date. In order to compete, a team’s roster must be approved by tournament organizers to ensure that it conforms to the rules.

Until the team’s first round of competition, the team roster is “unofficial”: any names may be added or deleted at the teacher’s discretion. Once the first round of competition has begun,

the roster becomes “official”: further amendments to which students are playing each role must be approved by tournament organizers in accordance with the tournament rules.

9. Substitutions and Changes to Official Rosters

The following rules are to ensure that the line-up rules are followed, and that when a team advances to the next stage of competition, a substantial number of the members that earned the right to advance continue to be part of the team at subsequent stages:

1. If an alternate team member is required to replace a core team member, the alternate must be drawn from the names listed on a team’s official roster.
2. If an alternate member substitutes for a core member in one round, the core member may return to their role in a subsequent round, or the alternate member may be re-listed as a core member, with the original core member either being re-listed as an alternate member or ceasing to be a member of the team.
3. Once a roster is official, no more than three students may substitute for core team members as alternates for the remainder of the team’s rounds within the provincial competition.
4. If a team’s roster became official with fewer than three students listed as alternates, the team may subsequently add students to the roster as alternate members up to a maximum of three total alternate members for the team.
5. Teams are responsible for having a back-up plan in case a core team member cannot perform. In fairness to other teams, the rules on team composition and team line-ups may not be relaxed to accommodate teams with missing members.
6. A team always has the right to change the roles that core team members play on its team roster at any time throughout the competition, within the tournament rules. Therefore, teams may also compensate for losses of core team members by realigning the roles played by core team members, as well as drawing on alternates.
7. If a team loses more core team members than it can replace with alternates under the above stipulations (i.e., it has lost more than three members and is left with only five members or fewer), it will be disqualified from advancing to the next stage of competition. If this situation occurs in the middle of a competition day, then the team may continue to participate with fewer than six members, but it may not advance to the next round of competition, even if its scores would allow it to. If this situation

occurs after a team has earned a spot in the next stage of competition (e.g. between preliminary and final round days of competition), the team's place at that next stage of competition will be given to the next team in the standings.

Timekeepers

10. Provision of Timekeepers

Each team must provide a timekeeper to keep time in each mock trial round. Who keeps time can change from round to round, so that the timekeeper for a round may be:

- a) A student on the core team who is not participating in that round (in cases of a team of seven or eight);
- b) A team alternate (teams of only six students must therefore have at least one alternate who can keep time); or,
- c) In exceptional circumstances, the team's teacher, though teams are encouraged to provide a student to keep time

11. Tournament-Provided Timekeepers

Some local tournaments may choose to provide timekeepers, in which case teams are not required to provide one. Teams must be prepared to provide a timekeeper unless informed to the contrary.

12. Timekeepers as Court Clerks

The tournament organizers may deputize timekeepers to perform the functions of court clerk: reading the arraignment, swearing in witnesses, etc., where court clerks have not been otherwise organized. Therefore, any student who may act as timekeeper must familiarize themselves with the duties of the Court Clerk, which will be provided to teams.

Part 2. Competition Day and Venues

Observers and Spectators

13. Observers

Anyone related to a team (student, coach, parent, mentor, etc.) will only be allowed to observe their own team compete. Teams shall not observe other teams that they may compete against. If a team does not advance in the competition, they may observe any other mock trial.

14. Spectators

In general, teams should attend with only their members, their teacher and a reasonable number of spectators (e.g. team photographer, school newspaper reporter) Teachers should not bring entire classes of students to watch the mock trials as this can lead to crowding in the courthouse which can jeopardize future tournaments if they are seen to be too much of a burden on the building and staff. This rule may be relaxed by local tournament organizers at their discretion based on local conditions. Lawyer coaches and parents are welcome to attend.

Courthouse Rules and Etiquette

15. Dress

Students playing counsel may “dress up” in business or business casual clothing, but there is no specific dress code. Teams that have their own set of gowns may not wear them unless gowns are being provided to all teams. Witnesses may dress appropriately for their characters.

16. Cameras and Photos

Organizers will take steps to permit the taking of photographs in courthouses, but there are restrictions on where and when photos can be taken even when this permission is granted. Taking photos is not generally allowed in courthouses, so participants and observers must not take photos without checking with organizers first.

17. Electronic Devices

The use of electronic devices to take notes or keep time is permitted, although students must be mindful of the impression created by excessive use of electronics in the courtroom. It is much likelier to appear disengaged or accidentally disrupt the trial by the use of these devices

than by simply making notes on paper. This is particularly the case for cell phones, which may give the impression one is texting, rather than taking notes.

Participants that use electronic devices for assistance due a disability should inform the tournament organizers before the tournament, or the judges at the beginning of the trial, depending on the situation. This will avoid any misunderstandings and ensure that appropriate accommodations can be made.

Part 3. Trial Procedure

General

18. Application and Modification of Rules of Evidence and Procedure

As a simulation, mock trials demand certain modifications of court rules and procedure. The actual rules of evidence and procedure in effect in Ontario will apply in mock trials except where there is a conflict between those rules and anything specified in the OOCMT rules, in which case the OOCMT rules prevail.

19. Citing the Law

Only the applicable law (e.g. sections of the *Criminal Code*) provided with the case package may be directly referenced at trial. No other statutes or decided cases, or the *Charter of Rights and Freedoms*, may be referred to by name. Students are expected to have researched and to identify the relevant legal tests for the case, but should simply refer to those tests in applying the law to the facts of the official case, rather than making submissions referencing individual cases.

It is assumed in all OOCMT cases that any *Charter* issues have been dealt with prior to trial. No motions alleging a *Charter* violation may be made.

20. Requirement for Defence Case

The defence must call its witnesses and go through the trial process. No applications for a directed verdict or motions to dismiss the proceedings are allowed.

21. No Redirect/Re-Examination

Redirect or re-examination is when counsel gets to pose follow-up questions to their own witness after the witness has been cross-examined. Due to time constraints, this is not permitted in these mock trials. If a judge erroneously offers such a right, all teams shall decline.

22. Use of Notes

Lawyers are permitted to use notes in making their submissions. Witnesses, including police officers, are not permitted to use notes. A police officer witness may use a blank notebook as a prop only, provided it is shown to the opposing team prior to trial.

23. No Coaching Permitted During a Trial

Once a mock trial round is under way, the team may not receive any coaching verbally or by way of written note from a teacher, lawyer coach, or anyone else, except their own co-counsel playing in that round. A team found to have been receiving coaching may be disqualified from the tournament.

Trial Set-Up

24. Determining Crown and Defence Sides at Trial

In most cases, teams will play two rounds in their first inter-school competition. The roles of Crown and defence may be assigned to ensure teams get to perform both roles. Pairings will be made randomly and may be made in advance to save time on the day.

In the upper rounds of competition, teams will usually compete in “knock-out” rounds in the form of quarter-finals, semi-finals and finals. In these rounds, Crown and defence sides will be determined by a coin toss: the winner of the toss will select their preferred side. In the event that two teams meet in an upper round and have already faced each other in a previous round of the competition, at any stage, the teams will play the reverse of the sides they played in the previous round.

If two teams meet in an upper round have already met twice in previous rounds, determination of Crown and defence sides will revert to a coin toss.

25. Pre-Trial Meeting

Prior to the commencement of each trial round, teams are advised to meet informally between each other when they get to their courtrooms to discuss matters such as:

- Who is keeping time and where they will sit
- The gender of witnesses and (if applicable) the defendant
- Any enlargements of exhibits
- Police notebook – to allow the other side to verify it is blank

Resolving the above issues ahead of time can reduce confusion and save time during the trial. This is also an opportunity to shake hands and wish each other good luck, and may relieve some of the tenseness of competition.

Time

26. Time for Witness Examinations

Each team is allocated 10 minutes to examine both their witnesses and 10 minutes to examine the other team's witnesses. Teams can use this time as they wish, except that both witnesses must be called within the 10-minute period.

For example, if counsel examines one witness for seven minutes on direct examination, then three minutes remain for counsel to examine the second witness. Team timekeepers and teams as a whole are responsible for ensuring that one counsel does not take up the whole 10-minute period examining one witness, leaving no time to examine the second witness.

27. Preparation Time for Closing Arguments

After all witness examinations are completed, there will be a two-minute period for counsel to prepare for closing arguments. The lawyers at the counsel table may confer amongst each other if they wish. No communication is permitted with anyone else, including witnesses, team members not playing that round, teachers, or lawyer coaches.

Timekeepers must keep and signal time during this period.

28. Role of Timekeepers

Each team must provide a timekeeper for each round. Therefore, each round will have two timekeepers. Both timekeepers will monitor the time and hold up time cards for counsel from their own team, as well as the other team. This ensures that accurate time is being kept and signalled.

Timekeepers must sit next to each other, positioned so that counsel can easily see time signals. Counsel are responsible for watching for those symbols and managing their own time.

29. Keeping Track of Time

Any device with a stopwatch function may be used to keep time.

Timekeepers must use the official timesheets provided to keep track of how much time was used for one witness, and therefore how much time remains for the next.

At the end of each segment of the trial (e.g. an opening statement, witness examination, etc.), the two timekeepers must compare their timekeeping devices and sheets to ensure

consistency between them; if there is a discrepancy, they must bring this to the judge's attention immediately. The judge's ruling on the correct time is final.

When the allotted time for a segment is up, timekeepers must hold up the "STOP" sign and keep it up until counsel stops talking. If counsel fails to stop or ask the judge for more time after a few seconds, timekeepers must stand and ensure that the judge sees the "STOP" sign. If no one has noticed the timekeepers' signal, then the timekeepers should say "time" to get everyone's attention.

30. Stoppage of Time

The following instances will require timekeepers to stop the clock:

1. **Judicial Interventions and Questions:** The clock shall stop whenever a judge intervenes in the proceedings of their own accord and not in response to a question by counsel. Timekeepers should stop the clock whenever a judge asks a question or makes a statement which is not a response to a question by counsel. Therefore, responses to counsel's request to enter exhibits, set up an enlargement of an exhibit, etc., do not stop the clock. If the clock stops because a judge has intervened, it shall remain stopped while counsel respond directly to the intervention, and resume once counsel has moved on. Usually, in this case, a judge will say "thank you", or "okay, go ahead", signifying that counsel can resume submissions, and the timekeepers should resume the clock.
2. **Objections:** The clock shall stop when an objection is raised and remain stopped while the judge addresses it, including any further speaking by counsel for either side on the objection itself. The clock should stop as soon as the judge recognizes that opposing counsel has risen on an objection, and resume once the objection has been dealt with and regular proceedings carry on.
3. **Translation:** Translation may require the clock to stop if a mock trial is being conducted bilingually.
4. **Reading in of a statement by a defendant who is not testifying:** If the defendant is not testifying, the Crown may read the defendant's statement aloud. The clock shall be stopped while the statement is being read out.

No other instances shall stop the clock, and no team shall request a stoppage of time for any other reason. Counsel may request "the court's indulgence" for a moment to confer with

colleagues or set up an enlarged exhibit or demonstration, and this is permitted – but an “indulgence” just means a break in counsel’s submissions; it does not stop the clock.

Exhibits/Evidence

31. Exhibits

Teams may only use the exhibits provided in the official case package. All exhibits in the case package are deemed to have been disclosed prior to trial.

The official case package will contain specific instructions on the handling of the provided exhibits, which teams are required to follow.

In some cases, practicality demands the use of a photograph or scan of what would, in a real trial, be an actual physical piece of evidence. These are to be treated as if they were the actual objects. Under no circumstances should a team attempt to bring a toy gun, mock drugs or other such items into a courthouse.

Every team is responsible for bringing its own copies of the provided exhibits for use at trial. When a team enters an exhibit and it is deposited with the court clerk or judge, that copy becomes the “real” exhibit for the round. Counsel from the team that did not enter the exhibit must ask the court clerk for that copy if they wish to use it in their submissions.

32. Use of Enlargements of Provided Exhibits

Teams may bring their own enlarged copies of provided exhibits to aid in their submissions, provided that:

1. The enlargement has been shown to the opposing team prior to the commencement of the trial;
2. The judge grants permission for the enlargement to be used; and,
3. The enlargement is available for use by the opposing team as well as the team that brought it.

33. Demonstrations

Teams are permitted to conduct a demonstration during a witness examination: for example, to use a human subject and ask a witness to identify the spots where an injury occurred. Such demonstrations require the consent of the judge. The clock shall not be stopped for the setting up of any demonstration, and any time used for a demonstration is part of a team’s

allotted time for examinations. Demonstrations are not permitted during opening statements or closing arguments.

Witnesses

34. Calling Witnesses

All witnesses must be called, and may be called in any order.

35. Witnesses Not to Be Excluded

No judge shall order, and no team shall request, that witnesses be excluded from proceedings. If a judge orders that witnesses be excluded, counsel should object and refer the judge to this rule.

36. Witness Gender

Witnesses may be played students of any gender. Teams may confirm the gender of witnesses with each other before each round, and refer to a witness by the gender of the student playing that witness, but no team may make an issue of the other team referring to a witness as being of one gender or another.

No submissions which make gender material to the case may be made at trial. For example, participants must not ask questions such as, "Did you hear male or female screams?", or give answers such as, "I'm a gentleman – I'd never hit a girl".

37. Witness Characterization

Witnesses may wear apparel and accessories appropriate to their characters. Witnesses are encouraged to be flexible, get into character and have fun with their role. The use of accents, unusual speech patterns, mannerisms, etc., which are appropriate for the witness character, are permitted. Witness characterization may not, however, cause undue distraction from the substance of the mock trial, act as a cover to avoid answering questions in a timely fashion, or in general create an unfair situation for the opposing team. Whether a witness's characterizations cross the line is a matter for judges to consider in their deliberations.

38. Witness "Stalling"

Witnesses have considerable leeway in answering questions, as long as they do provide an answer. Counsel cannot direct a witness to "just answer yes or no". Some evasiveness or framing of a response to suit their position is to be expected from opposing witnesses. Counsel cannot force a witness to give the answer that counsel wants.

However, to ensure fairness, witnesses must not engage in excessive “stalling”. Excessive stalling, when it occurs, should be apparent to a reasonable person as calculated and intentional, rather than due to a lack of comprehension or confusion on the part of the witness.

If excessive stalling occurs, counsel may ask the judge to instruct the witness to cease the stalling, and counsel may also ask for an extension of time, which the judge may grant.

39. Sworn Statements

Sworn statements are deemed to be authentic and signatures to be valid. No team shall make submissions to the contrary.

40. Consistency of Oral Testimony with Sworn Statements

Witnesses must learn their characters by becoming completely familiar with the information contained in their sworn statements. They can extrapolate from the facts in their statements, but they cannot create new facts that would create an unfair situation for the other team, and they cannot contradict what is stated in their statement without risking “impeachment” by the other team.

41. Inconsistent Testimony

Testimony that a witness gives which is not consistent with their sworn statement is inconsistent testimony. Inconsistent testimony can take the form of either contradiction, unfair extrapolation or omission.

1. **Contradiction:** When a witness’s oral testimony directly contradicts an element of their sworn statement.
2. **Unfair Extrapolation:** When a witness gives testimony that is not strictly a contradiction of their sworn statement, but which nevertheless creates such new alleged facts as to create an unfair situation for the opposing team, and negatively impacts the mock trial round.
3. **Omission:** When a witness has given testimony that is neither a contradiction nor an unfair extrapolation, but in their testimony omits such key elements of their sworn statement as to create an unfair situation for the opposing team and negatively impact the mock trial round.

42. Dealing with Inconsistent Testimony, or “Impeaching” a Witness

An opposing counsel will either be faced with alleged inconsistent testimony while engaged in cross-examination or while listening to the witness’s direct examination before cross-examining that witness.

In either case, if counsel is concerned about the inconsistency, they should raise it by cross-examining the witness on the inconsistency. This is formally known as “impeaching” a witness.

For the purpose of the mock trial, “impeaching” simply means cross-examining a witness to point out that something in their oral testimony under oath is inconsistent with their sworn statement in one of the ways outlined in Rule 41. By cross-examining the witness on the inconsistency, counsel can potentially catch the witness in a contradiction, which will make the witness appear less credible.

Examples of how to “impeach” a witness are provided in the Tournament Guide and in a video available on the OOCMT website at ojen.ca/ocmt.

Counsel should follow the impeaching procedure and should never raise the issue of inconsistent testimony as an objection. It is not a valid objection.

Objections

43. Regular Trial Objections

Counsel may raise any objections to evidence and procedure which would normally be permitted in an Ontario courtroom, keeping in mind that only a small set of objections are likely to apply to the mock trial setting. The Tournament Guide outlines the most common objections that students are likely to need to know.

44. Special Objections

A special objection relates to an issue with the mock trial rules that is not part of regular trial evidence and procedure (i.e. outside the fictitious “universe” of the mock trial). Because a fair competition requires consistent application of the rules, counsel may raise a special objection in the same way they would raise a regular trial objection, and refer the judge to the rule in question.

When making a special objection, counsel should calmly rise as usual and, when recognized, say “Your Honour, I have a special objection based on the tournament rules”, so that the judge immediately understands that this is not a regular objection.

45. Responding to Objections

When counsel from one side makes an objection, the judge will normally give the other side an opportunity to respond. In this case, the lawyer who was speaking when the objection was raised should try to give a response. However, if they cannot, any other lawyer at the counsel table may rise to provide a response for the team.

Part 4. Application of Rules

46. Rule Violations before a Trial Begins

If a team notices an apparent rule violation outside of a mock trial round, including just before a round has begun, they should alert tournament organizers, even if it means delaying the start of the mock trial.

It is much more difficult to resolve issues after a trial has begun than beforehand. Therefore, if there is an issue before the start of a mock trial round (such as a dispute over exhibits, or a team's line-up), participants should inform the judge that there is a pre-trial rules issue to resolve; a team representative should leave the courtroom and seek out a tournament organizer. Before a trial has begun, it is a tournament organizer – not a judge – who is in the best position to resolve and rule on the issue.

47. Rule Violations during a Trial

If a rule violation occurs during a mock trial, a team can either raise a special objection with the judge immediately (Rule 44), or wait until the end of the trial and note to the judge in their closing arguments that they are alleging a violation of the rules, and what it is.

Teams should use discretion when interrupting the mock trial with an objection for an alleged rule violation. They should only do so when the rule violation is of a kind which demands immediate attention (for example, coaching – Rule 23). Many rule violations (for example, an improper line-up – Rules 5 through 7) are best addressed during the closing arguments as the judge can then deliberate with tournament organizers before reaching a decision on appropriate action. Judges may not be well-acquainted with some technical rules and may not be as well-placed to make a determination on the issue as tournament organizers.

48. Sanctions for Rule Violations

Sanctions for rule violations will depend on the context and nature of the issue. Tournament organizers shall seek to resolve issues by applying the letter and spirit of the tournament rules, with the aim of maintaining the fairness and integrity of the competition. Any violation of the tournament rules may – but will not necessarily – result in a team's disqualification from competition, at the discretion of tournament organizers.

49. Rule Deviation by a Judge

If a judge makes a ruling which is clearly at odds with the tournament rules, then counsel may raise this point with the judge through a special objection. Counsel must clearly point the judge to the rule in question. Counsel must accept the judge's ruling on the point as the

judge is the ultimate decision-maker in the courtroom, but should advise tournament organizers of the issue after the conclusion of the trial.

Part 5. Mock Trial Time Chart

	Segment	Conducted by	Time (in minutes)	Notes
1	Preliminary matters	Judge(s) & Clerk	5	Introductions, read charge, enter plea, etc.
2	Opening statement	Crown	4	N/A
3	Direct examination of first Crown witness	Crown	10	For direct of <u>both</u> Crown witnesses
4	Cross-examination of first Crown witness	Defence	10	For cross of <u>both</u> Crown witnesses
5	Direct examination of second Crown witness	Crown	Remainder of 10 for direct examination	Subtract time used for direct of first Crown witness from 10
6	Cross-examination of second Crown witness	Defence	Remainder of 10 for cross-examination	Subtract time used for cross of first Crown witness from 10
7	Opening statement	Defence	4	N/A
8	Direct examination of first Defence witness	Defence	10	For direct of <u>both</u> Defence witnesses
9	Cross-examination of first Defence witness	Crown	10	For cross of <u>both</u> Defence witnesses
10	Direct examination of second Defence witness	Defence	Remainder of 10 for direct examination	Subtract time used for direct of first Defence witness from 10
11	Cross-examination of second Defence witness	Crown	Remainder of 10 for cross-examination	Subtract time used for cross of first Defence witness from 10
12	Preparation for closing arguments	Crown & Defence	2	Counsel may confer amongst themselves
13	Closing arguments	Defence	5	N/A
14	Closing arguments	Crown	5	N/A
15	Recess for judge's deliberation	Judge(s)	15	N/A
16	Delivery of verdict and feedback	Judge(s)	10	N/A
	Total		90	Trials may take longer depending on time stoppages