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SC YMCA YOUTH IN GOVERNMENT APPELLATE RULES AND PROCEDURES

Welcome to the appeals competition for the South Carolina YMCA Youth in Government program. **EVEN IF YOU HAVE PREVIOUSLY PARTICIPATED AS AN APPEALS ATTORNEY AT PREVIOUS SC YIG CONFERENCES, PLEASE READ THESE INSTRUCTIONS AS THEY HAVE BEEN MODIFIED.**

The rules and procedures conform to those of the YMCA Youth in Government's National Judicial Competition (NJC). The top appeals teams from South Carolina will be given the opportunity to compete at the national competition in the summer of 2023.

These instructions also provide a brief overview of the nature of appeals, forming an appeals team, and provide tips and tools for preparing for the competition.

You will work in teams of two. Teams will prepare both sides of the case to argue.

The case for this year consists of the following: (1) these instructions; (2) the Statement of the Case, which sets out the relevant facts; (3) the Statement of Applicable Legal Principles; 4) the opinion of the United States Court of Appeals for the Flamingo Circuit; (5) excerpts of the written briefs filed in the Supreme Court on behalf of the Appellant and the Respondents; and (5) three Supreme Court or Federal Appellate Court cases that address the issues raised in this case.

When preparing your argument, you are limited to the information we have provided you. Do not consult any other materials.

The Supreme Court generally considers legal issues only, not factual issues. The facts of a case are decided at the trial level, either by a judge or a jury. If there is an appeal from a trial court's decision, the appellate courts defer to the facts as found by the trial court judge or jury and consider only



whether the law was properly applied to those facts. While you may not argue that the trial judge was wrong about the facts, you may argue that the facts as found by the trial judge do not support the trial judge's legal conclusion or the legal conclusion of the Fourteenth Circuit. If there are facts in the record that you believe are important but were not mentioned in the Fourteenth Circuit's opinion, you are free to argue that those facts support your position. You may not, however, base your argument on facts that do not appear in these materials.

I. What is Appellate and How Does it Work?

- A. The appellate competition involves the presentation of a fictitious case to an appellate court. The appellate competition differs greatly from the trial of the case with which the general public is more familiar. This section will familiarize you with the basic appeals process.
- B. What is an appeal?
 - i. The appeal process is an integral part of our legal system. Following a trial, the losing party can challenge the result in a higher court. This is done by presenting specific challenges to the rulings of the trial court (example: the exclusion of evidence or witnesses) or to the manner in which the lower court interpreted the law in reaching the result that it did (example: did the trial court follow the law). These challenges are supported by precedent, decisions of other courts in similar cases.
- C. In the federal system, a case usually will go from the Federal District Court to a Circuit Court of Appeals and then to the United States Supreme Court.
- D. In an appeal, parties are initially required to file "briefs" setting forth their arguments and authorities. After the briefs are filed, the parties then present "oral arguments" to the appellate court. The attorneys for the parties make oral presentations to the appeals court detailing the reasons why their respective clients should prevail. The judges or justices of the appellate court may interrupt the attorneys at any point and ask questions about their arguments.
- E. After the oral arguments, the appellate court will issue its decision, usually accompanied by a written opinion setting forth its analysis



- on the issues. If a particular judge or justice disagrees with the holding of the Court, he or she may file a “dissenting opinion.
- F. For the purposes of the SC YIG (and NJC) participants will compete only through Oral arguments
 - i. Oral Arguments consist of attorneys making arguments of their position in the case to the appellate court. During oral arguments, the attorneys will be interrupted and asked questions by the appellate judges. These questions will help the appellate judges make a decision of how to rule in the case. The attorneys structure their oral arguments using only the legal precedents to support their case. In some cases, both sides of a case may cite the same case to support their opposing arguments. Most cases include a dissent, or include legal theory that could be used to support two different arguments if a skilled appeals attorney is able to argue why the case at hand is different from the one decided in a previous case.
 - G. The decision of the appellate court is then written in the form of an opinion that is sent to the attorneys and is sometimes published for use as precedent in later cases.

II. Team Composition

- A. For SC YIG and for NJC, an appellate team will consist of two members.
- B. Both attorneys must argue in each round, with each attorney speaking for at least five minutes. Each attorney may speak only one time during each round. For instance, if Attorney One speaks for the first five minutes of the round and then sits down to allow Attorney Two to speak, Attorney Two must complete the round
- C. Each side will be given 20 minutes to present their argument.
- D. Each side (Petitioner and Respondent) has two student attorneys, and the attorneys may divide this time between themselves however they see fit.
- E. Additionally, the Petitioner has the right to reserve up to 5 minutes for rebuttal, which is deducted from their 20 minutes total. It is the Petitioner’s duty to announce this before the oral argument begins.
- F. The parties must tell the Bailiff prior to the start of the competition



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- how they will divide their time.
- G. The Bailiff will have time cards to signal the attorneys how much time is left for their argument
 - H. The Bailiff will signal when time is up.
- III. Briefs:
- A. Briefs will not be required from teams, although attorneys are encouraged to use the format for writing a brief to help guide their preparation.
- IV. Attorney Oral Arguments:
- A. Your score during the oral arguments will be used to determine rankings. Sample scoring sheets have been attached. Please review these scoring sheets to determine the various categories on which you will be scored.
- V. Rules:
- A. For the purposes of this year's competition, the arguments are being presented to the United States Supreme Court. Before each round begins, teams will be assigned to represent either the Petitioner or Respondent. The Petitioner team presents its arguments first, and is then followed by Respondent's arguments. The Petitioner will then have the opportunity to provide a brief rebuttal, which will be presented by only one of the two attorneys for Petitioner's team.
 - B. Each team has a total of twenty minutes to present their argument. This time can be divided in any manner chosen by the team, except that (1) each lawyer of the team must present at least 5 minutes of the argument, and (2) except for rebuttal, each lawyer may go to the podium only one time; in other words, one attorney of a team cannot give 2 minutes of the argument, sit down and let his or her partner speak for 5 minutes, and then return to the podium to conclude the argument [excluding rebuttal]. A suggested time division of the arguments is as follows:
 - i. Petitioner Lawyer #1 - 9 minutes; Petitioner Lawyer #2 - 8 minutes
 - ii. Respondent Lawyer #1 - 10 minutes; Respondent Lawyer #2 - 10 minutes
 - iii. Petitioner Rebuttal - 3 minutes



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- C. During the course of the oral arguments, the justices may interrupt and ask questions about the argument. Attorneys should answer the justice's questions, and then return to the argument.
- D. Attorneys cannot communicate with their partners while presenting their oral arguments. Once an attorney goes to the podium, he/she must remain there until the conclusion of the argument. Attorneys may take notes, cases or a summary to the podium. (Please read "Suggestions for preparing oral arguments" for guidance concerning excessive paperwork at the podium.)
- E. Attorneys should not point or look at opponents during oral argument. Oral arguments must be directed at the Court. Attorneys should refrain from making any personal remarks about or attacks upon opposing counsel.
- F. When a judge begins asking a question, attorneys should stop speaking immediately. (It is considered disrespectful for the attorney to attempt to talk over the judge.)
- G. If an attorney runs out of time while arguing, he/she should stop immediately, and request permission from the Court to conclude the sentence. If the Court grants permission to conclude, the attorney must promptly conclude.

VI. Format of the Competition

- A. Attorneys enter the courtroom and set up at the counsel tables. There will be someone at the bench keeping time. Each attorney will need to give the timekeeper the following information:
 - i. Their name
 - ii. Whether they are Petitioner or Respondent
 - iii. Which speaker they will be (Petitioner #1 or #2 or Respondent #1 or #2) How much time they will need for their presentation
- B. A Bailiff will announce the entry of the judges. The timekeeper may also be the Bailiff. The Bailiff will say: "All persons having business before the Honorable, the United States Supreme Court, are admonished to draw near and give their attention, for the Court is now sitting."
- C. The Judges will come in and sit down and the Bailiff will state: "Please be seated."



- D. The first case on the calendar, that of _____.
 - E. The Chief Justice will ask: "Is the Petitioner ready"
 - F. The Petitioners will stand. One team member (typically the first to speak) looks directly at the Chief Justice and answers: "Petitioner is ready, your honor." (Petitioners then sit down)
 - G. The Chief Justice will ask: "Is the Respondent ready"
 - H. The Respondents will stand. One team member looks directly at the Chief Justice and answers: "Respondent is ready, Your Honor." (Respondents then sit down).
 - I. The Chief Justice will instruct the Petitioners that they may proceed
 - J. The Petitioner first speaker will approach the podium and begin. As soon as the Petitioner #1 finishes, Petitioner #2 will approach and begin their argument
 - K. Once both Petitioners have made their argument, the first Respondent will approach the podium and begin. As soon as the Respondent #1 finishes, Respondent #2 will approach and begin their argument.
 - L. Once both Respondents complete their argument, the Petitioner (one speaker only) will approach the podium and make their rebuttal.
 - M. Upon the completion of the Petitioners rebuttal (the respondent does not get a rebuttal) the Chief Justice will announce that the judges will retire and make their decision.
 - N. As the justices rise to leave, the Bailiff will ask everyone in the courtroom to please rise. Once the justices leave, everyone can sit down
 - O. As the justices return to render their decision, the Bailiff will ask everyone in the courtroom to please rise.
 - P. Upon returning to the court room the justices will give the parties their decision.
 - Q. The justices/evaluators may give a critique of their performance. Up to 15 minutes is allotted for critiques and comments.
- VII. The Competition
- A. The number of competition rounds each team gets will depend on the number of teams in the competition, but time permitting, every team should have the opportunity to present their Petitioner argument once and their Respondent argument once, along serving as a Justice for one round.



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- B. Violations of any of the above rules may result in point deductions. This deduction is at the discretion of the individual evaluator. Egregious violations may be brought to the attention of Appellate Trial Committee Chair prior to the beginning of the next competition round. Conference staff has the ultimate authority to deduct points and/or disqualify teams.
- C. During oral arguments, you will be scored by an evaluator/justice.
- D. Your oral argument presentations will be scored, and those scores will be used for rankings.
- E. The decision on team scores is made by a scoring panel or evaluators who are students, paralegals, or professionals in the field of law.
- F. Evaluators score individual and team performances. Each evaluator fills out an individual ballot, and evaluators should not consult with one another during this process. Judges should not instruct evaluators on scoring decisions. Teams should not ask judges to rule that an event during the trial should be assigned a particular score on evaluator ballots.
- G. The criteria for scoring is provided with the ballots and evaluators will be provided a document entitled "Tips for Evaluators" as a scoring guide.
- H. **NO COMPLETED BALLOTS ARE TO BE VIEWED BY ANY TEAM MEMBER OR ANY OTHER PERSON DURING THE COMPETITION**, in compliance with the educational goals of the National Judicial Competition. These are to be returned to the tournament staff after the round has been concluded and the winning team recorded. Score and comment sheets for a team will be copied and distributed to that team's coach after the competition is completed.



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Attorney Scoring Sheet: Oral Arguments

Round (Date/Time): _____

Judge (please print): _____

Petitioner: Team No. _____

Respondent: Team No. _____

Speaker No. 1: _____

Speaker No. 1: _____

Speaker No. 2: _____

Speaker No. 2: _____

Knowledge and Use of Facts

Petitioner

Speaker No. 1 Speaker No. 2

1 2 3 4 5 1 2 3 4 5

Respondent

Speaker No. 1 Speaker No. 2

1 2 3 4 5 1 2 3 4 5

Knowledge and Use of Case Law

Petitioner

Speaker No. 1 Speaker No. 2

1 2 3 4 5 1 2 3 4 5

Respondent

Speaker No. 1 Speaker No. 2

1 2 3 4 5 1 2 3 4 5

Effectiveness/Persuasiveness of Argument

Petitioner

Speaker No. 1 Speaker No. 2

1 2 3 4 5 1 2 3 4 5

Respondent

Speaker No. 1 Speaker No. 2

1 2 3 4 5 1 2 3 4 5

Ability to Respond to Questions

Petitioner

Speaker No. 1 Speaker No. 2

1 2 3 4 5 1 2 3 4 5

Respondent

Speaker No. 1 Speaker No. 2

1 2 3 4 5 1 2 3 4 5

Demeanor/Presentation

Petitioner

Speaker No. 1 Speaker No. 2

1 2 3 4 5 1 2 3 4 5

Respondent

Speaker No. 1 Speaker No. 2

1 2 3 4 5 1 2 3 4 5

Total Petitioner 1: _____

Total Respondent 1: _____

Total Petitioner 2: _____

Total Respondent 2: _____

PETITIONER TOTAL SCORE:

RESPONDENT TOTAL SCORE: _____

Winner of the Round (circle one)

Petitioner Respondent



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Comments:

Evaluator:



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STUDENT JUDGE EVALUATION

Student Judge: _____

Round: _____

Court Room#: _____

EVALUATOR: FILL OUT THIS FORM COMPLETELY AND SIGN AT THE BOTTOM. CIRCLE THE SCALE TO RATE STUDENT JUDGE ON THE LISTED CRITERIA.

1 - FAIR 2 - GOOD 3 - ABOVE AVERAGE 4 - EXCELLENT 5 - OUTSTANDING

<u>Knowledge of Legal Procedure</u>	1	2	3	4	5
<u>Ability to Communicate - Grounds For Decision</u>	1	2	3	4	5
<u>Questioning Skills</u>	1	2	3	4	5
<u>Reasoning Ability</u>	1	2	3	4	5
<u>Knowledge of Law</u>	1	2	3	4	5
<u>Knowledge of Facts</u>	1	2	3	4	5
<u>Demeanor</u>	1	2	3	4	5
<u>Cooperation with Judicial Colleagues</u>	1	2	3	4	5

TOTAL POINTS:
(Maximum Points - 40)

Comments:

Evaluator: