

Tips for Hosting School Mock Trials

INTRODUCTION

As facilitator, it is your job to make sure the court process flows and that the students have a good learning experience. It is also important to make sure the students understand the objectives of the mock trial and to feel comfortable during the process. Tell the students that the main objective is to learn something and also to have fun. Some students may have a fear of public speaking, so explain that if anyone gets “stuck” and does not know what to say, they can make the universal time-out sign and you will come over and whisper a suggestion in their ear. If any student appears to be having a hard time, you can call your own time-out and make a suggestion aloud or elicit suggestions from the group as a whole (e.g., “what would be a good question to ask this witness?”). This guide will help you in preparing for your mock trial and for answering questions about courtroom procedure.

There are two types of mock trials: scripted and role-play. The students are assigned specific parts to read in a scripted mock trial; while in a role-play mock trial, the students receive a set of facts and they must develop their own arguments and, using established courtroom procedure, argue their case.

The guide below is divided between scripted and role-play mock trials, but they both generally have the same role assignments. The roles in a mock trial include:

- Judge
- Prosecuting Attorney
- Defense Attorney
- Victim
- Witnesses
- Defendant
- Expert Witnesses
- Court Clerk
- Bailiff, and
- Juror

In a civil mock trial, instead of the prosecuting attorney, defense attorney, victim, and defendant, there are the plaintiff and his/her attorney and the defendant and his/her attorney. Check with the fact pattern to identify what roles are needed.

Once you have chosen your fact pattern and identified what roles need to be filled then you can begin the mock trial process with the students.

SCRIPTED MOCK TRIAL

- After choosing a fact pattern, assign the different speaking roles to student volunteers. All other students who do not have a speaking role may be on the jury.
- Once the room is setup like a courtroom, you can commence the mock trial beginning with the first speaker on the script.

- When the script is completed, the jury may deliberate in front of the class or in fishbowl style. Once they come to a decision, it can be ceremoniously announced as indicated in the script.
- Some helpful classroom discussion questions after the mock trial ends include:
 - What did you find difficult about your role?
 - What do you think is important in trying to figure out whether someone is telling the truth?
 - In your own words what was the argument made by the prosecution/plaintiff? Defense's argument?
 - If you were an attorney for the prosecution or the defense, what facts or argument would you have presented?
 - (Civil Mock Trial) Could the parties have reached a mutual settlement out of court?
 - Do you agree or disagree with the decision? Why?
 - In your opinion, was the trial fair for both sides? Why?

ROLE PLAY MOCK TRIAL

- After choosing a fact pattern, have each student read through it either on their own or for homework. Tell them to think about roles they would like to play and prepare and plan accordingly. For example, if they want to be the prosecuting attorney then they should think about strategy (who they should call as witnesses and what to ask them) and prepare arguments.
- Any student not assigned a specific role can be a juror.
- The following are the phases of the trial (see attachment Helpful Hints for Mock Trial Participants from the ABA Putting on Mock Trials Guide):
 - Opening Statement: Prosecution or Plaintiff
 - Opening Statement: Defense
 - Direct Examination of Witnesses – Prosecution or Plaintiff
 - Cross Examination of Witnesses – Defense
 - Direct Examination of Witnesses – Defense
 - Cross Examination of Witnesses – Prosecution or Plaintiff
 - Closing Arguments: Prosecution
 - Closing Arguments: Defense
- The jury begins deliberation after the Defense attorney makes their closing argument. The deliberation can be in front of the class or in a fishbowl style. Once a decision is made, it can be ceremoniously announced by the judge.
- Some helpful classroom discussion questions after the mock trial ends include:
 - What did you find difficult about your role?
 - What do you think is important in trying to figure out whether someone is telling the truth?
 - In your own words what was the argument made by the prosecution/plaintiff? Defense's argument?
 - If you were an attorney for the prosecution or the defense, what facts or argument would you have presented?

- (Civil Mock Trial) Could the parties have reached a mutual settlement out of court?
- Do you agree or disagree with the decision? Why?
- In your opinion, was the trial fair for both sides? Why?

Making Objections

In courtroom proceedings, there are complex rules that govern whether evidence is admitted. They are designed to ensure that both sides receive a fair hearing. A simplified form of rules is below that can be used in your role-play mock trial.

An attorney may object any time s/he thinks the opposing attorney is violating the rules of evidence. However, generally an attorney does not object during the opposing attorney's opening statement or closing argument. When an attorney makes an objection, s/he must state what specific rule of evidence is violated. The opposing attorney, who was objected to, will then get a chance to explain why the objection should not be accepted by the judge. If the judge accepts the objection then s/he will say, "sustained" and the question does not have to be answered or the evidence will not be submitted. If the judge rejects the objection then s/he will say, "overruled" and the question has to be answered or the evidence is admitted.

Rules of Evidence

"Objection, Irrelevant" – This means that witness's answer, the attorney's original question, or the exhibit will not help the trier of fact to decide the issues in the case.

"Objection, Leading" – Leading the witness is only objectionable when done on direct examination. A leading question is one that suggests the answer to the question and is usually answered by "yes" or "no."

"Objection, Hearsay" – Hearsay is a statement made outside of the courtroom and are admitted for the truth of the matter asserted. The most common hearsay problems occur when a witness is asked to tell what another person said to him or her. Exceptions to the hearsay rule are when the statement contains evidence that goes against his or her side; or if a person's state of mind at the time of a certain event is important.

"Objection Lack of Personal Knowledge" – This is when the witness is testifying to things that the witness has not directly seen, heard, or experienced.

"Objection Opinion" – Opinions of a witness are not allowed unless it is within the common experience of people to form such an opinion. Expert witnesses may give opinions if they explain the basis for the opinion that is they have the training or experience to be able to form such an opinion.

"Objection Speculation" – This is when the witness can only guess at answers to the attorney's question.