

HARVARD
LAW SCHOOL

UPPER-LEVEL AMES
MOOT COURT
COMPETITION

2017-2018

QUALIFYING ROUND RULES

ADMINISTERED BY THE

BOARD OF STUDENT ADVISERS

VICE-PRESIDENT, AMES COMPETITIONS: HENRY DRUSCHEL

CHAIR, UPPER-LEVEL AMES COMMITTEE: TRAVIS EDWARDS

ADMINISTRATIVE COORDINATOR: YVONNE SMITH

AMES MOOT COURT QUALIFYING ROUND COMPETITION RULES

HARVARD LAW SCHOOL

FALL 2017

The Upper-Level Ames Moot Court Competition (the “**Competition**”) takes place in three stages, each of which is organized and administered by the Board of Student Advisers. The first stage, the Qualifying Round, is governed by these Rules. The Qualifying Round consists of two phases. In the First Phase, all teams participating in the Qualifying Round must submit an appellant brief in accordance with these Rules. In the Second Phase, only those teams whose appellant briefs exceed a certain score will participate; these teams will be required to submit appellee briefs and participate in oral arguments in accordance with these Rules. These Rules also apply to the entire Competition to the extent that they establish conditions of participation in later stages.

Questions about the Qualifying Round should be directed to Henry Druschel, the Board of Student Advisers Director of the Ames Competitions, and Travis Edwards, the Chair of the Upper-Level Ames Committee (together, the “**Chairs**”) at the official email address for the Ames Qualifying Round: ameshls.ground@gmail.com. If for any reason this email address is unresponsive, the Chairs may also be reached at their personal email addresses: hdruschel@jd18.law.harvard.edu and tedwards@jd18.law.harvard.edu.

I. GENERAL RULES

A. Team Members

1. Eligibility. Any current second-year law student in residence and academic good standing at Harvard Law School is eligible to participate in the Qualifying Round, including students admitted to the Law School with advanced standing as second-year students. Students may only join one team. Students in joint degree programs cannot participate in the Qualifying Round while not enrolled in Harvard Law School classes. These students are eligible only in the first year in which they are enrolled in Law School courses after their first year in law school. A student may participate in the Competition only once.
2. Registration. All teams must register online through a link available on the BSA website: <https://orgs.law.harvard.edu/bsa/ames-competition>. Each team will be assigned an identification number.
3. Number. Each team participating in the Qualifying Round shall identify four (4) members on its registration form. If any team member resigns, the team may substitute a replacement in accordance with the team withdrawal and team member replacement policy set forth in Section I.A.5. The deadline for withdrawing from the Qualifying Round or replacing team members is noted on the Qualifying Round Schedule.

Each team that advances to the Semi-Final Round of the Ames Competition (the “**Semi-Final Round**”) shall add two (2) members to its roster so as to compete with a total of six (6) members. Individuals must have submitted an appellant brief as part of the

First Phase of the Qualifying Round in order to be eligible for addition to the roster of a team advancing to the Semi-Final Round.

4. Captains. Each team must designate one (1) of its members as the Team Captain. The Team Captain must give the Chairs a phone number and email address at which they may be reached. The Chairs will accept communications or questions only from the Team Captain.

B. Team Responsibilities

1. Team or Team Member Withdrawals from the Competition and Team Member Replacements. The Qualifying Round Schedule sets out the date by which teams must give notice of their intent to withdraw from the Competition or to replace a team member (the “**Withdrawal/Replacement Deadline**”). If a team member resigns prior to the Withdrawal/Replacement Date, the team may substitute a replacement so long as the new team member’s name is submitted by email to the Chairs no later than the Withdrawal/Replacement Deadline. An entire team may withdraw from the Competition so long as the team has given the Chairs emailed notice of its decision to withdraw no later than the Withdrawal/Replacement Deadline. Any team that lacks four (4) members as of the Withdrawal/Replacement Deadline shall be deemed withdrawn from the Competition.

Replacement of team members or withdrawal of a team after the Withdrawal/Replacement Deadline will be permitted only in extraordinary circumstances established to the satisfaction of the Chairs.

The Ames Moot Court Competition is a serious academic activity at Harvard Law School. Any participant who resigns after the Withdrawal/Replacement Deadline will be referred to the Harvard Law School Administrative Board (the “**Administrative Board**”), and their team will be required to compete in the Qualifying Round with only three (3) members. In such event, the team will participate in the normal number of oral arguments, either with two of the remaining members of the team arguing three times each or with one member arguing four times. If a team with only three (3) members progresses to the Semi-Final Round, such team shall be entitled to add three (3) new team members at that stage. A team may not compete with fewer than three (3) members.

All members of a team that withdraws from the Qualifying Round after the Withdrawal/Replacement Deadline will be disqualified from participation in the Semi-Final and Final Rounds of the Competition. Under certain circumstances, the entire team may be referred to the Administrative Board. Any other participant that individually withdraws from the Qualifying Round after the Withdrawal/Replacement Date will also be disqualified from participation in the Semi-Final and Final Rounds of the Competition.

2. Failure to Appear at Oral Arguments. This provision applies to teams that advance to the Second Phase of the Qualifying Round.

The Ames Moot Court Competition is a serious academic activity at Harvard Law School. If any individual fails to appear at their scheduled oral argument, they will be referred to the Administrative Board and will be disqualified from the Semi-Final and

Final Rounds of the Competition. In addition, the BSA will not certify that the individual has completed the prerequisites for receiving Written Work Requirement credit for their Qualifying Round brief.

If any pair does not appear for an oral argument, the entire team will be disqualified from the Semi-Final and Final Rounds of the Competition. Under certain circumstances, to be determined by the Chairs, such team may also be referred to the Administrative Board. For the avoidance of doubt, such team must still appear and participate in any remaining scheduled oral arguments.

In consultation with the Dean of Students, the Chairs will address situations of true emergency on a case-by-case basis.

3. Good-Faith Effort. Every participant is required to make a good-faith effort in the preparation of briefs and participation in oral arguments. The BSA will refuse to certify that a participant's brief satisfies the prerequisites for receiving Written Work Requirement credit if the Chairs conclude that the participant has failed to demonstrate such a good-faith effort.

C. Team Organization

1. Preparation of Briefs. Each team will write one (1) appellant brief.

If a team advances to the Second Phase of the Qualifying Round by scoring a sufficiently high score on its appellant brief, the team will write two (2) appellee briefs in response to the briefs submitted by two (2) other appellant teams. Each individual on the team may consult on and assist with the preparation of all of the team's briefs.

2. Oral arguments. Upon submission of the appellee briefs, each team will also receive two different appellee briefs, written in response to that team's appellant brief. Each team will then participate in four (4) oral arguments, two (2) as appellee and two (2) as appellant, against the teams whose briefs they have received. Each member of the team will participate in two (2) oral arguments, subject to Section I.B.1. Members may participate in two appellee arguments, two appellant arguments, or one appellee argument and one appellant argument.

D. Research and Outside Assistance

1. Outside Assistance. The Qualifying Round is a team endeavor. Once the Record has been distributed, no team member may consult with or receive assistance or suggestions with respect to any aspect of the Qualifying Round from any person not on their team. This includes any individual that a team intends to add or is considering adding to the team if it advances to the Semi-Final Round, or any individual who participated in a previous Competition. Any team that violates this rule will be disqualified from the entire Competition, and the individuals involved may be referred to the Administrative Board for academic dishonesty.
2. Use of Appropriate Materials. Once the record has been distributed, teams may use briefs or oral arguments from actual practice or moot courts only if those materials are generally available on the Internet. Participants should be particularly careful to properly

cite such materials for any quotations or ideas they use. Teams may not use draft briefs from pending litigation, or any other materials that are not generally available. Any questions about whether and how any materials may be used should be directed to the Chairs.

The Chairs may, at their discretion, specifically designate any materials as “off-limits.” Team members may not consult or use in any manner such materials.

3. Research. Only materials generally available in the Harvard University library system may be used. The use of LEXIS, Westlaw, and the Internet is permitted, as well as the Interlibrary Loan service.
4. Effective Dates. Rules 1–3 of Section I.C are in full force and effect from the date and time that the Qualifying Round Record is made available for distribution to the date and time that the last scheduled oral argument of the Qualifying Round is completed.

E. Changes to and Clarifications of the Record or Rules

1. Questions on the Record. Team Captains must submit to the Chairs any questions regarding the Record by the deadline stated in the Qualifying Round Schedule. Only the designated Team Captain may submit questions. The Chairs do not have authority to answer substantive questions about the Record. Rather, the Chairs will forward all questions about the Record to the Record Writer, who will then provide the Chairs with answers. The Chairs will submit to Teams Captains a list of every question received from the participants along with the responses. Questions submitted after the deadline will not be answered.
2. Changes to the Record. If the Record Writer chooses to amend the Record, teams will be given notice of the amended Record and will receive a revised copy in their Qualifying Round Mailbox outside of the Board of Student Advisers Office or via email. Judges will receive the revised Record with no indication that it has been amended.
3. Questions on the Rules. Teams must submit any questions regarding the Rules to the Chairs by the deadline stated in the Qualifying Round Schedule. The Chairs have the exclusive authority to answer questions regarding the Rules. With respect to each submitted question regarding the Rules, the Chairs have the discretion to answer or refuse to answer. The Chairs will submit to Teams Captains a list of every question received from the participants along with the responses. Questions submitted after the deadline will not be answered.

II. BRIEFS

A. Format

1. Components. Briefs must include all of the following:
 - a) A cover page.
 - b) A table of contents and a table of cited authorities.

- c) Questions presented for review. The questions must appear on a separate page before the statement of facts.
 - d) A statement of facts.
 - e) A statement of the basis for jurisdiction in this court.
 - f) A summary of the argument.
 - g) The argument, exhibiting clearly the points of fact and of law presented and citing the authorities and statutes relied on.
 - h) A conclusion specifying with particularity the relief the party seeks.
 - i) Signature of counsel
 - (1) Note: For appellant briefs, in place of a signature, the team should include their team number and pair letter to ensure confidentiality. Student names should not appear anywhere or in any form on the appellant brief.
 - j) To the extent that the case substantially involves the application or interpretation of a statutory or constitutional provision, each team shall reproduce the relevant provision in its brief or provide an appendix including a reproduction of such provision.
2. Covers. Cover pages must satisfy the following requirements:
- a) Covers for appellants' briefs must be blue. Covers for appellees' briefs must be red.
 - b) The brief shall bear on its cover all of the following:
 - (1) The court
 - (2) The docket number
 - (3) The names of parties
 - (4) The designation of parties (i.e. appellant/appellee)
 - (5) The team number (followed by "A" or "B" to designate the pair as appellant or appellee)
 - c) The cover page for the appellant brief **may not** contain any reference to team members' names.
 - d) The cover page for the appellee briefs **must** include the names of the team members who will argue in support of the brief, as well as the date, time, and location of oral argument.
3. Length. Each brief shall contain a maximum of 4,500 words, excluding: (1) the cover page, (2) the table of contents, (3) the list of authorities, (4) the questions presented, (5) the statement of jurisdiction, (6) headings identifying a section of the brief (e.g., "Statement of Facts"), and (7) any appendix consisting of a verbatim reproduction of constitutional, statutory, and/or regulatory provisions. At their discretion, the Chairs may

assess against the word limit any material found within one of the above excluded sections that the judges conclude is not appropriate material for that section.

4. Footnotes, Headings, Etc. Participants may choose to use footnotes, headings, and/or subheadings. Footnotes, headings, subheadings and all other words found within the brief, including the signature block, count toward the word limit, unless they form a part of one of the excluded sections listed in Section II.A.3.
5. Citations. Citations should follow the guidelines set forth in the most recent edition of *The Bluebook*. Parallel citations are **not** required. In the event that a brief cites materials that can be found only on the Westlaw and/or LEXIS services, the citation shall include a reference to at least one of the services where the material can be found.

B. Applicable Laws

1. State of Ames. In the event that a case is set in the State of Ames, the State of Ames shall be considered a 51st state of the United States. In the event that a case is heard by the Court of Appeals for the Ames Circuit, the Circuit shall be considered a federal, regional appellate circuit of the United States that embraces the State of Ames.
2. Procedural Rules. In addition to the Ames statutes set out in the record, and except as otherwise provided, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, and the Federal Rules of Appellate Procedure shall be in force in the courts of Ames.

C. Submission

1. Time and Place. All briefs must be submitted by the time and date noted on the Qualifying Round Schedule. The official clock for the Qualifying Round is the clock located inside the Board of Student Advisers Office, WCC 2051. This Office will be open during the times that briefs are to be filed. Late briefs will be subject to the penalties set out in Section V. The Team Captain of any team filing a late brief shall contact the Chairs to arrange a time for submission of the briefs.
2. Number of Briefs. Teams shall submit to the Board of Student Advisers Office the following number of briefs in accordance with the deadlines specified in the Qualifying Round Schedule:
 - a) All participating teams must submit twelve (12) copies of their appellant briefs.
 - b) Teams that advance to the Second Phase of the Qualifying Round must submit six (6) copies of the first appellee brief and six (6) copies of their second appellee brief.
3. Electronic Submission. In addition to the required hard copies specified in Section II.C.2, each team shall submit a complete, Microsoft Word-formatted electronic copy of each brief to the Chairs by the deadline for the brief specified in the Qualifying Round Schedule. The BSA will use the electronic version to, among other things, verify that the briefs comply with the word count limits set forth in Section II.A.3. The Chairs may also email briefs to the judges.

The Chairs will report any team that submits electronic versions that do not conform to

the hard copies of its briefs to the Administrative Board. The Chairs may also disqualify any team submitting non-conforming electronic versions from the Competition or impose any other penalty that the Chairs find appropriate.

4. Distribution of Opposing Counsels' Briefs. Teams advancing to the Second Phase of the Qualifying Round will receive copies of their opposing counsels' appellant briefs by the date and time specified on the Qualifying Round Schedule. Copies will be placed in each team's Qualifying Round mailbox, located in the hallway outside of the Board of Student Advisers Office.

D. Future Distribution of Briefs

All submitted briefs become the property of the Board of Student Advisers. The Board may, at its discretion, use the Qualifying Round briefs for its own purposes, including as anonymous sample briefs that may be read by other participants.

E. Writing Requirement

Qualifying Round briefs may be used to help satisfy the Harvard Law School written work requirement as determined by the Registrar's office. For more information about using the briefs in this capacity, please visit <http://hls.harvard.edu/dept/academics/writing-at-hls/hls-j-d-written-work-requirement-faq/> or contact the Registrar's office.

III. ORAL ARGUMENT

A. Length

Each side will be allocated thirty-five (35) minutes for oral argument. Appellants may reserve up to five (5) minutes of this time for rebuttal. No oralist may speak for more than twenty (20) minutes.

B. Citation

Each participant may cite and discuss at oral argument any case or publication, except those deemed "off-limits" in Section I.C.2, regardless of whether such case or publication is cited in the Record or in any of the briefs prepared by the teams. Participants must bring to the oral argument four (4) verbatim reproductions of any materials discussed in oral argument but not cited within the briefs, and distribute them to the judges and opposing counsel. Participants will not be permitted to present additional briefing.

C. Judging Panels

As far as possible, a law school faculty member, a practicing attorney, and a member of the Board of Student Advisers or other student judge will judge each argument. Changes to judging panels can be made by the Chairs at any time prior to the arguments.

D. Argument Attendance

Only the judges and the participants may attend oral arguments. Guests are not permitted to attend oral arguments, nor may teammates attend arguments other than the ones they are participating in.

IV. ADVANCING TO THE SEMI-FINAL ROUND

A. Individual Argument Scoring

1. Scores for Appellant Briefs. The appellant briefs will be scored on a scale of 0–100 by a team of students on the Board of Student Advisers. Scoring for appellant briefs will be done anonymously.
2. Scores for Appellee Briefs. For each argument, each presiding judge will score the appellee brief on a scale of 0–100. The Chairs will average all judges' brief scores to determine each team's Appellee Brief Score.
3. Scores for Oral Advocacy. For each argument, each presiding judge will score each oralist on a scale of 0-100. The Chairs will average all judges' scores to determine each team's Appellant Oral Advocacy Score and Appellee Oral Advocacy Score.
4. Scoring Guidelines. The Chairs may choose to distribute to presiding judges guidelines regarding the scoring of briefs and arguments. Copies of the scoring guidelines for each type of brief will be distributed to the teams along with the case Record.
5. Complaints about Scores. Scoring decisions are committed to the discretion of each judge. The scores, as calculated and verified by the Chairs, are final.
6. Scoring in Case of Absence. If a team or pair fails to appear for oral argument, the Chairs may choose either to require the appearing team or pair to argue without opposing counsel for a score, or may reschedule the argument at a different date and time. The team of any pair that does not appear for oral argument will be disqualified from the Semi-Final and Final Rounds of the Competition, but must appear to participate in any remaining oral arguments, including rescheduled arguments.

B. Team Scoring

1. Overall Score. A team's Overall Score is the sum of the team's Appellant Brief Score, Appellee Brief Score, and both Oral Advocacy Scores. The maximum possible Overall Score is 400.
2. Penalties. Penalties assessed against a team shall be subtracted from the team's Overall Score.

C. Selection of Advancing Teams

1. Number. The four (4) teams with the highest Overall Scores will advance to the Semi-Final Round.
2. Ties. In the case of a tie, the following tiebreakers will be used, in order, to determine which team(s) will advance:
 - a) Highest combined Appellant and Appellee Brief Scores.
 - b) Highest Appellant Brief Score.

- c) Highest Appellee Brief Score, excluding the teams' highest and lowest individual judge scores.

If a tie remains after each tiebreaker, the Chairs will select a panel of no less than two (2) HLS faculty members, depending on the substance of the problem, to select which of the tying teams will advance to the Semi-Final Round. That decision will be based solely on the briefs.

- 3. Effect of Qualifying Round Scores on Semi-Final Round Assignments. Advancing teams will be assigned to Semi-Final arguments at random.

D. Distribution of Team Scores

Scores will be distributed to Team Captains by email after the all scoring for both phases of the Qualifying Round has been completed. No team will be given information about any other team's scores or about team rankings. Team Captains are responsible for distributing the scores to other team members. At the Chairs' discretion, scores may also be distributed electronically to individual team members.

V. PENALTIES

A. Cover Page Information

Teams providing incomplete or inaccurate cover page information will be penalized five (5) points per oral argument for which such information was submitted.

B. Insufficient Number of Briefs

Teams turning in an insufficient number of briefs will be penalized five (5) points per missing brief (e.g., a team that turns in four (4) appellant briefs, rather than the twelve (12) required, will be penalized 40 points).

C. Late Briefs

Any team submitting its briefs after the deadline set out in the Qualifying Round Schedule but within thirty (30) minutes of the deadline will be penalized ten (10) points. Any team submitting its briefs thirty-one to sixty (31–60) minutes after the deadline will be penalized an additional ten (10) points, for a total of twenty (20) points. Any team submitting its briefs more than sixty (60) minutes after the deadline will be penalized an additional twenty (20) points, for a total of forty (40) points, and will need to contact the Chairs to arrange a suitable time for submission. Any team that does not submit its briefs within twenty-four (24) hours of the deadline shall be disqualified from the Qualifying Round. The Chairs may choose to require any such team to appear at and participate in its scheduled oral arguments.

In consultation with the Dean of Students, the Chairs will address situations of true emergency on a case-by-case basis. Under **absolutely no circumstances** will the Chairs make any exceptions to this late penalty policy for technological or electronic difficulties of any kind, including but not limited to computer problems, printing problems, and/or electrical outages on or off campus.

D. Excessive Length

Teams turning in briefs in excess of the word count limits set out in Section II.A.3 will be penalized twenty (20) points for the first one to fifty (1–50) words over the word count limit. Teams that are fifty (50) words or more over the word count limit will be disqualified.

E. Outside Assistance

Any team violating the research and outside assistance rules in Section I.C may be disqualified. The Chairs will investigate any such occurrence after giving the suspected team an opportunity to comment. In lieu of disqualification, the Chairs, at their discretion, may otherwise penalize a team for violation of the outside assistance rules.

F. Formatting or Citation Errors

Where a team has made formatting or citation errors in the appellant brief, the Board of Student Advisers judge will take these errors into account pursuant to the scoring guidelines. Where a team has made formatting or citation errors in the appellee brief, the BSA judge will endeavor to inform the other presiding oral argument judges, and the ultimate penalty will be at the sole discretion of each judge.

G. Discretionary Penalties

Where no specific penalty is provided for a Rules violation, the Chairs, at their discretion, may determine and impose appropriate penalties. Any academic dishonesty may be referred to the Administrative Board.

VI. ADMINISTRATIVE MATTERS

A. Communication Directed to Those Administering the Competition

All communications concerning the Competition, except where otherwise noted in the Rules, must be submitted via email to the Chairs at ameshls.qround@gmail.com. If for any reason this email address is unresponsive, the Chairs may also be reached at their personal email addresses, noted in the introductory paragraphs to these Rules.

B. Communication from Those Administering the Competition

1. Mailboxes. Each team will be assigned a “mailbox” outside of the Board of Student Advisers Office, in which the Chairs may leave materials for the teams. If the Chairs leave any materials for teams in these boxes, the teams will be notified via email within a reasonable amount of time.
2. Email. Unless specified otherwise in these Rules, all competition-related communication between and among the Chairs and the teams (via the Team Captains) shall be conducted by email. All competition-related emails should be addressed to the Ames HLS Qualifying Round email account (ameshls.qround@gmail.com).
3. Board of Student Advisers Office. The Board of Student Advisers Office will not be available for use by any team or individual team member for meetings, research,

photocopying, Internet access, brief preparation, oral argument preparation, or any other activities related to competition in the Qualifying Round.