



American Mock Trial Association 2021 Board Meeting Agenda July 10-11, 2021 Denver, CO

I. Call to Order

Attendance:

Members present (XX):

Members not present (XX):

Candidate Members present (X):

Candidate Members not present (X):

Staff & Guests (XX):

II. Welcome and Remarks (Harper)

III. Format of Agenda

Delivered by Secretary – D’Ippolito

Pursuant to Rule 10.2.1 of the AMTA Rulebook, all motions submitted were referred to the corresponding AMTA committee. All motions are referenced numerically by the abbreviation of the AMTA committee to which the motion was referred (*e.g.*, EC-02 or TAB-03). Each committee had the option of (1) tabling the motion; (2) amending the motion; or (3) substituting the motion. Tabled motions retained their original designations, but are provided in an appendix. Motions could be advanced with recommendation or without. The Executive Committee subsequently set the final motion agenda order, subject to agenda amendments made at the Board meeting.

Motions appear in red and bolded. The decision of the respective committees follows each motion **IN BOLD BLUE, CAPITAL LETTERS AND UNDERLINED.** Motions that have been recommended by committee do not need to be seconded at the meeting. Motions forwarded without recommendation require a second. For a motion to be adopted, it must have received a majority of the votes cast at a meeting at which quorum is present. *See* AMTA Bylaws, Section 4.10. Motions to amend the Bylaws required an affirmative vote of two-thirds of the Voting Directors. *See* AMTA Bylaws, Section 8.02.

Attached to the Agenda as **Appendix A** is the Consent Calendar.

Attached to the Agenda as **Appendix B** is a list of tabled motions. These motions were tabled by the reviewing committee and will not be considered by the Board for action. To “untable” a motion, five or more members of the Board (not including the motion’s author(s)), must request that the motion be considered. If such request is made, the full Board may vote on whether to overturn the Committee’s recommendation to table. A motion to overturn the Committee’s recommendation to table must be passed by a majority vote of the Board. ***Taking a motion off the table and placing it on the agenda alone does not result in adoption of the motion.*** A separate vote will be necessary on whether to adopt the motion.

Attached to the Agenda as **Appendix C** are the minutes from the December 2020 mid-year Board meeting.

IV. Approval of Agenda

V. Approval of the 2020 Mid-Year Board of Directors Meeting Minutes

VI. Special Board Elections

VII. Consideration of Tabled Motions

For procedure to “untable” a motion, please see discussion of Appendix B above. If a motion is “untabled,” it will be taken up in the order it would have appeared in the Agenda. (e.g., EC-05 would be discussed after EC-04).

VIII. Approval of the Consent Calendar (Attached as Appendix A)

IX. Committee Reports

- A. Academics Committee**
- B. Accommodations Committee**
- C. Analysis Committee**
- D. Audit Committee**
- E. Budget Committee**
- F. Civil Case Committee**
- G. Criminal Case Committee**
- H. Communications Committee**
- I. Competition Response Committee**
- J. Development Committee**
- K. Disciplinary Committee**
- L. Diversity and Inclusion Committee**
- M. Ethics and Professionalism Committee**
- N. Human Resources Committee**
- O. NCT Case Committee**

- P. New School Recruitment and Mentorship Committee
- Q. Rules and Intellectual Property Committee
- R. Strategic Planning Committee
- S. Student Advisory Board Committee
- T. Tabulation Advisory Committee
- U. Tournament Administration Committee

X. **Committee of the Whole Discussion: Status of 2022 AMTA Tournaments (Board discussion of in-person/virtual issues).**

XI. **Motions**

BUDGET-01: Motion by Eslick to have the Board authorize the opening of a new bank account at an FDIC insured institution.

Rationale: Doing so will enable us to keep amounts below the FDIC limit in our various accounts. We're pushing the limits now and have a sizable amount parked in our PayPal account, which isn't FDIC insured.

ADVANCED WITH A POSITIVE RECOMMENDATION

DEVELOPMENT-01: Motion by Scher to amend Rule 4.35 as follows:

Rule 4.35 Site-specific sponsorship agreements. The Development Committee shall have the authority, with consultation of the Tournament Administration Committee and the host, to enter into site-specific sponsorship agreements. Funds from such agreements shall be paid directly to AMTA. On or before January 15 of each competition season, funds then collected from each site-specific sponsorship agreement (less estimated taxes) shall be distributed as follows: 40% shall be retained by AMTA; 25% shall be distributed to the host to which the site-specific sponsorship agreement applies; and 35% shall be allocated to a pool to be divided equally among all hosts of AMTA-sanctioned tournaments. Funds received by AMTA after January 15 shall be carried over to the next academic year, but in no event will a host which does not host the following year be entitled to any funds from any site-specific sponsorship agreement.

Nothing in this Rule is designed to prohibit hosts of AMTA-sponsored tournaments from negotiating and executing sponsorship agreements, provided such agreements do not violate exclusivity provisions in pre-existing contracts between AMTA and any person or entity. Hosts shall consult with the Tournament Administration Committee to determine if any contemplated agreements are in compliance with this Rule.

Regional and ORCS Hosts shall be allowed to annually name Spirit of AMTA Awards in honor of a person, annually name the Senior Salute in honor of a person or entity, annually name the title of their tournament in honor of a person

or entity, annually name the title of individual courtrooms in honor of a person or entity, and annually name the attorney or witness awards in honor of a person or entity; all of the same naming opportunities apply for the National Championship Tournament except the Spirit of AMTA Award. Additionally, at the National Championship Tournament hosts shall be allowed to annually name the Divisions, Opening Ceremonies, and Closing Ceremonies in honor of a person or entity. Any and all such naming recognition under this rule must gain the approval of the Development Committee in consultation with the Tournament Administration Committee. No such naming under this rule would authorize changing language on plaques or similar physical awards.” As part of this motion, the Development Committee shall further be tasked with preparing supplemental materials for the Host Handbook related to this motion and sponsorship solicitation more broadly.

Rationale: As part of a set of Development Naming motions, this particular motion attempts to further codify what is and is not allowed to be leveraged for development purposes (sponsor and honorific). The included naming elements are relatively standard in nonprofit sponsorships and recognition, and provide hosts and AMTA with additional flexibility around solicitation and recognition of sponsor funds. This builds toward long-term development goals and was developed as part of the 2019 directive to the Development Committee to initiate guidance on such naming.

ADVANCED WITH A POSITIVE RECOMMENDATION

DEVELOPMENT-02: Motion by Scher (as revised by Committee) to Create Rule 10.6, which would state as follows:

Rule 10.6 High Honors.

(a) AMTA recognizes individuals who have made outstanding contributions to AMTA and its mission through a variety of mechanisms, including the honorific naming of High Honors. These High Honors include:

- The National Championship 1st Place Trophy
- The National Championship 2nd Place Trophy
- The Annual Mission Award
- The Annual Coaching Award
- The Coaches Hall of Fame
- The National Championship Senior Salute
- The National Championship Spirit of AMTA Award

(b) Any High Honor listed under 10.6(a) shall be eligible to be named after an individual upon majority vote by the Board. Motions of this sort, if passed, shall create a minimum 10-year honorific naming distinction; any motion to rename within that 10-year period is subject to a higher 2/3rds majority override vote; after the 10-year period the High Honor shall retain the naming distinction until a renaming motion passes. The naming and timing of High Honor distinctions shall be documented in the rulebook under 10.6(c).

(c) Current High Honors and Naming Eligibility

- The National Championship 1st Place Trophy: Calkins Trophy (renaming subject to 10.6d)
- The National Championship 2nd Place Trophy: Eleanor Berres Henrichs Trophy (eligible for renaming in 2025)
- The Annual Mission Award: Neal Smith Award (eligible for renaming in 2025)
- The Annual Coaching Award: W. Ward Reynoldson Award (eligible for renaming in 2025)
- The Coaches Hall of Fame: Unnamed (eligible for naming upon motion)
- The National Championship Senior Salute: Unnamed (eligible for naming upon motion)
- The National Championship Spirit of AMTA Award: Unnamed (eligible for naming upon motion)

(d) Calkins Trophy Exception: The Calkins Trophy is to be permanently named as such. Any change would require a 2/3rds majority vote of the Board.

(e) Senior Salute and SPAMTA 1-Year Exception: Until such a time that the NCT Senior Salute or the NCT Spirit of AMTA Award have been named under the High Honors process described within this rule, the Development Committee in consultation with the NCT Host, TAC Chair and President shall be allowed to use 1-year honorific naming for these awards subject to approval by the Executive Committee. This provision shall sunset upon passed High Honors naming motions for both awards, but shall remain in effect until such time.

(f) Review and Recommendation: The Development Committee shall be tasked with review of related motions, and potential review of honorific naming recognition.”

Rationale: Honorific Naming is among the most powerful tools in a 501c3's Development Toolbelt, and AMTA has rightfully acknowledged many of its early leaders through this process. The goal of this Motion is to give the Development Committee and Board as a whole reasonable, but measured power over such honorific naming. In summer of 2019 there was a motion to rename the Neal Smith Award, and the Development Committee was tasked with developing a game plan for future honorific naming; this motion represents part of that game plan. This incorporates current existing recognitions with a lengthy additional time for recognition, while also establishing a pathway into the future.

ADVANCED WITH A POSITIVE RECOMMENDATION

DIVERSITY-01: Motion by Scher and Watt to eliminate the “he or she” references in Bylaws 4.02.02, 4.03(e), 4.05, 7.05, 8.02, 8.03(e), 8.03(f)(2), by replacing them with “they” and adjusting the related tenses accordingly.

Rationale: This change builds on changes made over the last two seasons to eliminate unnecessary gender-binary pronoun use in all AMTA materials; this promotes diversity, equity and inclusion by adjusting our own primary documents to fit with our commitments to DEI. This is separate from the similar Rulebook motion given the different standards for rulebook / bylaw changes.

ADVANCED WITH A POSITIVE RECOMMENDATION

EC-09: Motion by Woodward and Scher to amend Rules 1.2(c) and 5.1, and add new Rules 1.2(l), 5.40, and 5.41 as follows:

Rule 1.2 Definitions.

c. “Sanctioned tournament” means any **stand-alone**, regional, opening round championship, or national championship tournament.

l. **“Stand-alone tournament” means a sanctioned tournament that is not a regional tournament or a championship series tournament. An invitational tournament is not a stand-alone tournament.**

Rule 5.1 Independence from AMTA. AMTA hosts regional tournaments, opening round championship tournaments, ~~and~~ a national championship tournament, **and may host stand-alone tournaments.** These are the only AMTA sanctioned and sponsored events. All other events not reflected above shall be deemed invitational tournaments. AMTA does not host, organize, fund or endorse any invitational tournament. These tournaments are exclusively hosted, organized and administered by their respective hosts, and are completely independent of AMTA.

Rule 5.40 Stand-alone tournaments. AMTA may, from time to time, sanction stand-alone tournaments outside of the traditional regional, opening round championship, and national championship round tournament structure. Such tournaments may be hosted either by AMTA or by an institutional host. The Executive Committee is empowered to determine the mission and parameters of each stand-alone tournament.

Rule 5.41 Rules applicable to stand-alone tournaments. Rules 1.2 through 1.10 shall always apply to any stand-alone tournament. Each stand-alone tournament may provide its own rules document, which may adopt by reference such further parts of this Rulebook as are appropriate, and which may set forth such different and/or further rules as are necessary for the stand-alone tournament.

Rationale: These changes provide permanent context in our rules for tournaments outside of the traditional sanctioned season, and would avoid

having an ad hoc Board vote every time AMTA decides to sanction such a tournament.

ADVANCED WITH A POSITIVE RECOMMENDATION

EC-12: Motion by Warihay to amend Rule 3.6.1 as follows:

Rule 3.6.1 Team Composition.

(1) GENERAL RULE. Each team may consist only of eligible students from a single member school.

(2) EXCEPTION FOR COMBINING SCHOOLS.

(a) Generally. A team may be composed of students from more than one school if the Executive Committee grants permission to do so. Permission from the Executive Committee must be requested in writing, **and must include a supplemental letter consistent with Rule 2.3 from the school for whom the student intends to participate indicating that the school agrees to assume responsibility for the conduct of the student(s) in AMTA competition, including any fees and penalties incurred.**

(b) Scope. This exception is intended only to accommodate students from schools which do not have a mock trial team, who demonstrate through their written submission that efforts have been undertaken to start a team at their home school that have been unsuccessful, and who demonstrate through their written submission that the purpose for their participation is to generate experience to permit them to eventually begin a new team at their home school.

(c) Limitations. This exception is not intended to allow schools to combine teams for competitive purposes. A student may compete for a maximum of two years for a school in which they are not enrolled under this rule. Separate permission must be sought each year, and in the second year, the student must again demonstrate their significant efforts made to start a program at their home school, along with addressing why they were unsuccessful.

(d) Subsequent registration of program. In the event that the Executive Committee grants an exception under Rule 3.6.1(2), that exception becomes void if the school in which that exempted student is actually enrolled registers to compete before the expiration of the registration deadline. If the school registers after the expiration of the deadline, then the exception may remain in effect.

Rationale: In a recent EC eligibility matter, several gaps emerged. First, administratively speaking, one gap would allow for a student to be found eligible to compete without the new member school ever even being informed that a student at another school is competing under their name. We ought to be requiring that all students competing under a university's name are indeed students who that university is taking responsibility for. Other rules take this into account, however 3.6.1 appears to have a gap. This gap is closed by requiring a supplemental institutional authorization letter from the school. In

addition, the more robust Scope and Limitations sections incorporate the prior restrictions, along with providing additional context and guidance both for our membership and for the EC in interpreting and administering this provision.

ADVANCED WITH A POSITIVE RECOMMENDATION

EC-13: Motion by Motion by Scher and Warihay (as revised by Committee) to amend the first sentence of Bylaw 4.03(a) as follows:

Section 4.03. Election and Term of Directors.

(a) Generally.

Directors must be reelected ~~each year~~ **every two years.**

If passed, the current Directors will be divided into two equal groups, ordered alphabetically by last name, with the first group up for election in 2022 and the second group up for election in 2023.

Further, this motion would add Bylaw 4.03.01(g), which would state as follows:

(g) Interim Director Assessment.

All Directors are expected to submit a written report of their activities on behalf of the Board by May 1st of the year with which they are not up for re-election; the Executive Committee shall review and the President shall, in consultation with the Executive Committee, provide feedback to the Director no later than June 1st. Failure to provide such a report may factor into the Executive Committee's recommendation in the next election cycle.

Rationale: There is an immense body of work that counsels against 1 year 501c3 Director Terms, as it can create both a rote re-participation effect, and can also negatively impact the ability for a Director to pursue meaningful goals during any given term. This does not change what is a 2-year, each individually assessed, Candidacy Period.

ADVANCED WITH A POSITIVE RECOMMENDATION

EC-14: Motion by Motion by Scher and Warihay to amend Bylaw 4.03.01 as follows:

Section 4.03.01. Director Selection Process.

(b) Recommendation Procedure.

The Executive Committee, which serves as the nominating committee, will review the Director applications and issue either a positive, ~~or~~ negative, **or neutral** recommendation on each application no later than March 15. The Executive Committee will also consider the contents of any other information provided by Directors in assessing the Director applicant's

performance and developing its recommendations. In order to give a positive **or negative** recommendation, a majority of the Executive Committee votes cast must be in favor of issuing such a recommendation, otherwise a **neutral** ~~negative~~ recommendation will be issued. **The Executive Committee may also issue a neutral recommendation with a majority vote.** Abstentions do not count as votes in this circumstance. Executive Committee members seeking to be Directors on the upcoming year's Board of Directors must recuse him/herself from all discussions of his/her nomination.

(d) Positive Recommendation.

A Director applicant who receives a positive **or neutral** recommendation will be placed on the ballot for the Board of Directors to vote on.

(e) Board of Directors Voting on Candidate Directors.

Any Director applicant who appears on the ballot by the Executive Committee – regardless of whether he/she has a positive, ~~or negative~~, **or neutral** recommendation from the Executive Committee – requires a majority of the votes cast by Voting Directors to become a Director. Abstentions do not count as votes in this circumstance.

Rationale: The binary positive/negative recommendation has created unusual problems for the Nominations and Governance Committee in that there are instances where the Committee has wanted to move forward an individual to Board Vote but not felt that either a positive or negative review was appropriate. A negative review ought to be reserved for severe instances where the NomGov Committee is attempting to explain why someone, in their collective opinion, does not belong on the Board; there are instances where a more middle-ground deference to the Board as a whole is appropriate. Neutral recommendations would not trigger appealable elements as described in other bylaws. This change expands the range of options for the NomGov Committee to indicate value of Directors to the organization, while also creating a meaningfully more granular opportunity for assessment by the full Board. This also does not change the requirement of the Executive Committee to issue positive/negative binary recommendations for Candidates.

ADVANCED WITH A POSITIVE RECOMMENDATION

EC-15: Motion by Scher and Warihay to amend Bylaw 4.03.01(a)(1) as follows:

Section 4.03.01. Director Selection Process.

(a) Information Gathering From Directors.

(1) Applications.

Anyone seeking to be a Director on the upcoming year's Board of Directors must submit a board applicant questionnaire ~~(form B)~~ **to**

be created annually by the Executive Committee no later than March 1. The names of the individuals who have submitted Director applications will be announced in writing to the entire Board of Directors within two business days following March 1.

Rationale: This “Form B” is nowhere included in the rules or bylaws, though has come to mean the annual forms requested to re-run. This form should be able to be modified and adjusted by any given EC acting as the NomGov Committee to best perform its duties and responsibilities. This fills a gap, adjusts to current practices, and allows for changes potentially related to other motions that modify the election and review processes, such as the requested supplement from the 2021 cycle.

ADVANCED WITH A POSITIVE RECOMMENDATION

EC-16: Motion by Scher and Warihay to create new Bylaw 4.03(f) to read as follows:

Section 4.03. Election and Term of Directors.

(f) Return of Directors.

If a person resigns as a Director from the AMTA Board voluntarily, that person may re-apply to the AMTA Board in any future year using the Director Renewal Application; Directors under these circumstances shall be eligible to bypass the candidacy period, but remains subject to Executive Committee review and a vote of the full Board of Directors to regain their status as a Voting Director. Should an individual not be affirmed by a vote of the full Board, they shall be required to go through the full candidacy process if the individual desires to further pursue regaining their role on the Board of Directors.

Rationale: We ought allow Directors to leave if they have things going on in their lives without requiring a subsequent 2Y candidacy period; this allows individuals to self-assess whether they can make the appropriate commitment to the Board. This process is generally already in place for Directors who become AMTA Counsel under 4.03(e), and builds on that process by placing such candidates in the existing Director election flow. A director who leaves is subject to standard deadlines, EC review, and Board vote -- but when received, would bypass the 2Y period outright.

ADVANCED WITH A POSITIVE RECOMMENDATION

EC-20: Motion by Scher to create Rule 10.4.1 as follows:

Rule 10.4.1 The Neal Smith Award.

(a) Purpose: AMTA will annually recognize one individual in recognition of their contributions to AMTA's educational mission in a broad sense. The winners of the Neal Smith Award have made outstanding and exemplary contributions to law related education and its mission to promote public understanding of law and legal process.

(b) Nominations: Nominations shall be open and announced publicly no later than March 1st annually, and nominations shall have a deadline of March 15th annually. Voting members as defined under this rule are ineligible to receive the award.

(c) Voting Members: There shall be 7 eligible voters each year for determining the final award: the Academics Committee Chair, the President, the Ombudsperson, the Development Committee Chair and the most recent three honorees willing to assist who are not already impaneled; the Academics Committee Chair shall serve as the organizer annually.

(d) Process: The voting members shall use Rank Choice voting until a winner is determined with majority support. The voting members may at their discretion solicit additional input from the community, including past award recipients. The award shall be announced no later than the conclusion of the annual National Championship Tournament.

Rationale: First, there is no reference to this award anywhere, meaning that the Board is guided strictly by norms and this motion attempts to rectify that procedural gap. Second, this formalizes the generally accepted timing of the award. Third, this removes what is a currently evolving and unpredictable process of annual management of the award, where the chair has less knowledge than all voting members. Fourth, this removes the current process -- not codified anywhere -- of a large volume of uninvolved or lightly-involved individuals controlling this vote; if AMTA is to give itself (or its best volunteers/coaches) awards, the Board of Directors ought have majority control of that process to best serve its own organization's goals.

ADVANCED WITH A POSITIVE RECOMMENDATION

TAB-01: Motion by Holstad (as revised by Committee) to do the following:

(a) Amend Rule 5.32 as follows:

Rule 5.32 National championship trial. The first place team from each division will meet in the national championship trial. **Of the two**

division winners, the team with the better ballot record shall select its side for the championship trial. If the two division winners are tied at the same ballot record, the tiebreakers set forth in the Tabulation Manual for tiebreaking award placement shall be applied until it is determined which team shall select its side. ~~Teams from the same school will not be assigned to the same division.~~ The winner of the national championship trial shall be the national champion.

(b) Amend the Tabulation Manual to conform to the provisions of the Rule.

Rationale: The top division winner should receive an actual benefit, particularly when there is the risk of side-bias impacting the NCT tournament. The stricken language is already enumerated in 5.28.1.b so is duplicative in this section.

ADVANCED WITH A POSITIVE RECOMMENDATION

TAB-02: Motion by Woodward (as revised by Committee) to replace Rule 6.11 with the following:

Rule 6.11 Team Power Rankings.

(1) METHOD OF CALCULATING. Team Power Ranking ("TPR") raw points shall be calculated as follows:

a. National championship ballots won at the most recent national championship multiplied by 5; at the national championship two years previous multiplied by 3; and at the national championship three years previous without multiplication.

b. Opening round championship ballots won at the most recent opening round championship multiplied by 2.5; at the opening round championship two years previous multiplied by 1.5; and at the opening round championship three years previous multiplied by 0.5.

c. If a team competes at the national championship in addition to the opening round championship in a given year, the team's raw points shall be based on either that team's national championship result for that year or its opening round championship result, but not both. The result which gives the team more raw points for that year shall apply.

(2) TEAM CREDIT. If a school's A team and B team both compete at the same level of competition in a given year, the better ballot record shall be credited to the school's A team, regardless of which team earned the ballots.

(3) EIGHT BALLOT EQUIVALENT AND ROUNDING REPEATING FRACTIONS. Whenever a tournament uses more than two scoring ballots per round, credit under this rule shall be expressed by the number of ballots that would comprise the same percentage of ballots won in a tournament with eight total ballots.

When results comprise multiple repeating fractions, appropriate rounding shall apply.

Example: A team earns 9 wins in a 3-ballot per round tournament. The team earns 6 wins for TPR purposes ($9/12 = 75\% = 6/8$).

Example: A team whose raw point totals are 13.33 and 2.66 shall equal a sum of 16.

(4) RANKINGS AND RANKING TIES. Teams shall be ranked by their total number of raw points, with the team with the most raw points having a rank of "1." Whenever the foregoing calculations result in two or more teams tied at the same amount of raw points, the oldest year's raw points shall be eliminated, with the team or teams with the highest remaining total receiving the higher ranking. If the tie is still not broken, the second oldest year's points shall be eliminated. Teams shall remain tied if this procedure does not break the tie.

(5) SPECIAL RULE FOR 2020 SEASON RESULTS. No championship ballot credit is awarded for 2020. A team that competed at ORCS in 2020 will receive credit for its actual ballots won. An "Affected Team" is defined as a team that accepted a bid to compete at ORCS in 2020, but was unable to compete either due to the tournament being canceled or due to withdrawal on the basis of the COVID-19 pandemic. An Affected Team's 2020 ORCS ballot credit shall be calculated as follows:

a. If an Affected Team competed at ORCS in both 2021 and 2019, the Affected Team's 2020 credit shall be the average of the Affected Team's ORCS results in 2021 and 2019.

b. If an Affected Team competed at ORCS in either 2021 or 2019, but not both, the Affected Team's 2020 credit shall be half of the the ballot wins from the year the Affected Team did compete.

c. If an Affected Team did not compete at ORCS in both 2021 and 2019, the Affected Team's 2020 credit shall be zero.

This subsection shall apply to 2020 results used in the 2021-22 and 2022-23 team power rankings and may be removed from the rulebook thereafter.

Example: An Affected Team earned 6 wins at ORCS in 2021 but did not compete at ORCS in 2019. The Affected Team receives credit for 3 ORCS wins in 2020.

Rationale: Sections 1 through 4 are a rewrite of the existing TPR procedures for clarity; in other words, nothing in Sections 1 through 4 is different from what we already do. Section 5 is the Committee proposal for using and calculating 2020 results over the next two years.

ADVANCED WITH A POSITIVE RECOMMENDATION

XII. Unfinished/New Business

XIII. Adjournment

APPENDIX A: CONSENT CALENDAR

Motion by Harper to adopt 2021-22 AMTA Committee Assignments:
[TBD]

DIVERSITY-02: Motion by Scher and Watt to eliminate the “he or she” references in Rules 4.28, 7.22, and 7.33 by replacing them with “they” and adjusting the related tenses accordingly, and to replace the “she or he” references in Rules 3.6, 3.6.1, and 8.9 in the same fashion.

Rationale: This change builds on changes made over the last two seasons to eliminate unnecessary gender-binary pronoun use in all AMTA materials; this promotes diversity, equity and inclusion by adjusting our own primary documents to fit with our commitments to DEI. This is separate from the similar Bylaw motion given the different standards for rulebook / bylaw changes.

ADVANCED WITH A POSITIVE RECOMMENDATION

DIVERSITY-03: Motion by Scher to do the following:

- (a) require the Executive Committee to act on Summer 2018’s passed EC-03 Motion within the 2021-22 season, with training to take place ideally during fall of the 2021-22 season, and no later than July 1, 2022;
- (b) allow the Executive Committee to delegate the related work from the original motion to the Diversity Committee; and
- (c) Instruct the Diversity Committee to create a game plan for continuing diversity education of our Board of Directors following this formal training, to be reported on no later than the 2022 Summer Board Meeting.

Rationale: In summer 2018, the Board passed a motion by Braunsberg, Gelfand and Watt that was never formally acted on, which stated “that, as part of our unwavering commitment to embrace diversity in all forms and to set an example to all participating colleges, universities, coaches, students and judges, and to further demonstrate our personal and professional commitment to organizational diversity, the board authorize the executive committee to solicit bids and hire a board consultant for the purpose of administering a remote access training session to the board to explore implicit bias and pathways for continued organizational excellence and improvement in the area of diversity, tailored specifically to the unique organizational and educational needs of AMTA, with an initial budget authorization of up to \$2000.” While the Board has made tremendous strides on diversity, equity and inclusion, the Board should fulfill this commitment in a timely manner, and should require its Diversity Committee to establish a game plan for continued education.

Comment from Diversity and Inclusion Committee: *While the Committee supports the EC implementation of that which was approved in 2018, we do not believe a second motion is needed to accomplish the 2018 objective.*

ADVANCED WITH A POSITIVE RECOMMENDATION

EC-02: Motion by Eslick to amend the rules to remove references to host "compensation" and "host reimbursements," and instead refer to host "stipends."

Rationale: This motion is intended to change Rules 5.11, 5.18.1, and 5.24.1. Calling the stipends "compensation" or saying they are to "reimburse" someone for something infers that AMTA receives a tangible benefit in exchange for hosting or that AMTA has some sort of formal affiliation with or control over host institutions, which raises insurance and tax issues. Calling these payments stipends should eliminate that issue.

ADVANCED WITH A POSITIVE RECOMMENDATION

EC-05: Motion by Bernstein to do the following:

- (a) Create an ad-hoc committee, whose members shall be selected by the President, to study current eligibility rules; and
- (b) For such committee to present proposal, for approval at the midyear meeting, for simplifying and clarifying our eligibility rules.

ADVANCED WITH A POSITIVE RECOMMENDATION

EC-10: Motion by Scher to amend Rule 3.5 as follows:

Rule 3.5 Student membership required. All student participants in sanctioned tournaments must be registered participants of AMTA. Each student must complete an online registration form on or before the Monday preceding the first AMTA-sanctioned tournament for that year. Each student must register with AMTA once per academic year. Individual information about students will not be released to any organization outside AMTA pursuant to AMTA's Privacy Policy. The ~~Development Committee~~ **Tournament Administration Committee** shall create the registration form and enforce this rule.

Rationale: This is a change to reflect actual AMTA practice; while the registration form is a page that the Development Committee engages with as it relates to potential fundraising, the actual management of the registration system and should remain within the purview of TAC. This effort was originally developed by Development, but has come to be executed not by Development and warrants revision as a result.

ADVANCED WITH A POSITIVE RECOMMENDATION

EC-11: Motion by Scher to amend Rule 3.8 as follows:

Rule 3.8 Use of ineligible team members. Any team that knowingly uses an ineligible person as a member will be subject to sanctions. Challenges alleging ineligibility of a competitor during a tournament must be made to an AMTA Representative immediately after the conclusion of the round in which the alleged violation occurred. Challenges under this rule may not be made to a judge and may not be made during a trial. Challenges alleging ineligibility of a competitor made at a time other than during a tournament must be raised to the AMTA Executive Committee.

Rationale: Teams have an affirmative duty to verify eligibility under 3.7; by including 'knowingly' in this rule, we've created a discrepancy with the rule. Teams functionally must know the eligibility of their rostered competitors, and failure to know ought not preclude sanctions.

ADVANCED WITH A POSITIVE RECOMMENDATION

EC-17: Motion by Scher to amend Rule 7.11(2) as follows:

Rule 7.11. Reasonable Accommodations.

(2) LATE REQUESTS. Requests for accommodation not made by January 15 should be directed to the Accommodations Committee at the earliest possible date. If the Accommodations Committee is unable to reach a decision before the start of the tournament at issue, or if the request was never brought to the Accommodations Committee, the student, coach, or person making the request shall bring the request to the tournament's AMTA Representatives, who shall have the authority to grant or deny the request. If denied, requests for accommodation handled by a tournament's AMTA Representatives may be appealed to the Tabulation Director, who shall decide in consultation with the President, whether to overturn the AMTA Representatives' decision. **In the event that the Tabulation Director cannot be reached, or is one of the AMTA Representatives, the party may appeal to a member of the Executive Committee in the order described in Rule 9.3(3).**

Rationale: Throughout the rulebook, we provide for alternatives when the Tab Director is also a rep or is unreachable; that alternative structure is not provided for under Rule 7.11 (which was recently revamped by the Board). This motion aims for consistency across our rules, adopts language already in verbatim use under Rule 9.4 for the same purposes, and avoids a potential dual-role scenario whereby appeals are moot.

ADVANCED WITH A POSITIVE RECOMMENDATION

EC-18: Motion by Scher to amend Rule 10.6.3 as follows:

Rule 10.6.3 Interactive components. "AMTA shall ~~have an interactive site so that the National Tabulation Director, the National Tournaments Director(s), and the Executive Committee can address student concerns quickly in a manner that is available to all. The site shall also contain Q&A from Rules Committee with official responses to questions raised throughout the season. Answers posted on the site are the only official answers~~ **utilize social media platforms to disseminate information, at the discretion of the Communications Chair in consultation with the President. Subsequent moderation and content strategies related to such platforms shall be developed by the Communication Committee subject to Rule 10.1.5 governing Board Communication.**"

Rationale: 10.6.3 reflects the days of an AMTA web blog, which was eliminated in favor of social and email strategies to reach more people faster. The rule as written is outdated, and being replaced with an expectation for ongoing broad platform communications with embedded oversight.

ADVANCED WITH A POSITIVE RECOMMENDATION

EC-19: Motion by Scher to amend Rule 10.6.2 as follows:

Rule 10.6.2 Online discussion forum. "The ~~Administrative Assistant will arrange for the Web Master to create~~ **Communications Chair in consultation with the Secretary and President shall maintain** an online forum for discussion of AMTA policies and proposals. Access will be limited to members of the Board of Directors **and Candidate Directors.**"

Rationale: First, this rule is outdated in that we no longer have an Administrative Assistant as expected under this rule, and in that the Board does not currently operate such a forum. Meaningful discussion has taken place over the 2020-2021 season by Communications Committee Directors and Executive Committee members about the value of a more inline communication flow (ala Slack) for people to weigh in on issues, identify contribution opportunities, and generally discuss the roles and responsibilities of AMTA Directors; this change replaces non-existent expectations with a new standard that is already in development and ought be expected by the Board moving forward.

ADVANCED WITH A POSITIVE RECOMMENDATION

RULES-02: Motion by Scher and Warihay to Amend Rule 611 of the Midlands Rules of Evidence as follows:

Rule 611. Mode and Order of Examining Witnesses and Presenting Evidence

(a) ~~Omitted.~~ Control by the Court; Purposes. The court should exercise reasonable control over the mode and order of examining witnesses and presenting evidence so as to:

- (1) make those procedures effective for determining the truth;
- (2) avoid wasting time; and
- (3) protect witnesses from harassment or undue embarrassment.

(b) Scope of Examinations. The initial cross examination is not limited to matters discussed on direct examination. Re-direct and re-cross examination are permitted. But any re-direct or re-cross examination may not go beyond the subject matter of the examination immediately preceding it and matters affecting the witness's credibility.

(c) Leading Questions. Leading questions should not be used on direct examination except as necessary to develop the witness's testimony. Ordinarily the court should allow leading questions: (1) on cross-examination; and (2) when a party calls a hostile witness, an adverse party, or a witness identified with an adverse party.

Rationale: Non-responsive, vague, argumentative, and badgering are all commonly used objections in the AMTA-verse, and were explicitly named in the rules of procedure documents that were eliminated a few years ago; this elimination has left a hole subject to abuse by teams being hyper-technical, subject to confusion by new teams, and subject to confusion by a judging pool. The bringing back of 611a provides for a solution without explicitly creating a new 'allowable objections' list. We suspect 611(a) was originally omitted in favor of an outright list in the Civil/Criminal Procedure document, but at this stage with the document eliminated we should trust our member schools to understand the real-world applications of 611(a).

ADVANCED WITH A POSITIVE RECOMMENDATION

RULES-03: Motion by Scher and Warihay to preserve the newly created Chapter 11 of the AMTA Rulebook with the following edits to all Virtual Trial and 2020-2021 season edits:

Rule 8.5 Demonstrative aids.

(2) ELECTRONIC DEMONSTRATIVE AIDS. The use of electronic or light projected demonstrative aids is prohibited. ~~Note: Rule 8.5(2) is REPEALED for 2020-21 season only.~~

Rule 10.3.2 Case Committee duties and procedures.

(2) CASE RELEASE DEADLINE. Each year's case will be made publicly available no later than August 15.; ~~with the exception of the 2021 civil case problem, which shall be released on or before September 8, 2020.~~

Rule 11.1 Virtual Backgrounds. The use of virtual backgrounds during trials held on Zoom is permitted, provided that any such virtual background is otherwise consistent with AMTA rules, including demonstrative aids (Rule 8.5) and invention of fact (Rule 8.9). Virtual backgrounds shall be disclosed at captains' meetings. **These rules were in use for the 2020-2021 season, which was held online as a result of the COVID-19 pandemic. The rules are preserved here for potential future online competitions.**

Rule 11.8: Rule 8.5(2) regarding Electronic Demonstrative Aids does not apply in Virtual Competition.

Rationale: While we hope that we will return fully to in-person competition, the preservation of the rules in effect for 2020-2021 is good governance for any potential future activities. Similarly, Rules 8.5 and 10.3.2 were revised in ways that ought be undone before the next season. This does not change any existing protocol, but rather cleans up and preserves knowledge.

ADVANCED WITH A POSITIVE RECOMMENDATION

RULES-04: Motion by Scher to add Rule 10.3.2(5)(h), which would state as follows:

Rule 10.3.2. Case Committee duties and procedures.

(5) The Case Committee will choose and adapt the case so that it conforms to the following requirements:

(h) Guidance that experts provided in their respective statements or reports (1) a complete statement of all opinions the witness will express and the basis and reasons for them, (2) the facts or data considered by the expert in forming their opinions, and (3) the expert's relevant qualifications.

Rationale: The Board passed a motion in Summer 2020 via Thomason that applied Federal Rules of Civil Procedure 26(a)(2)(b) to all of our cases. At the time, the Board did not modify any rule, but rather agreed to this exact language being required in all cases. This has created a high-risk scenario where the Board passed a rule that is not codified anywhere outside of Minutes, and as such it ought be referenced to ensure compliance by case chairs into the future. This fundamentally does not create or change any existing item, it only preserves the item in our processes.

ADVANCED WITH A POSITIVE RECOMMENDATION

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ANALYSIS-01: Motion by Holstad to Direct Statistics Committee to Analyze Side Bias in NCT Cases.

The Statistics Committee shall analyze the side bias in NCT Cases in the 6 championships (2009-2014) prior to the adoption of the second NCT-specific case in 2015 and the 6 championships (2015-2019, 2021) since the implementation of the second case. The Committee's analysis should explore whether side-bias at the NCT has any correlation with having a new case and issue a report with its findings by the mid-year AMTA Board Meeting.

Rationale: Now that we've had a number of NCT cases with the second-case system, we should have plenty of data to do a thorough analysis of side-bias. There is concern among the community of side-bias given the lack of ability to vet the case prior to its use at the NCT. Note that this motion does not presume an answer, but it is worth getting analytical data to determine whether or not side-bias at the NCT needs to be addressed.

Committee's Rationale for Tabling Motion: *The Analysis Committee is already committed to prepare a report analyzing case balance at the NCT in time for the July 2021 Board of Directors Meeting.*

CRC-01: Motion by Holstad to amend Rule 8.9 as follows:

Rule 8.9 Invention of fact. In lieu of discovery, this rule shall govern the testimony of all witnesses.

(1) CLOSED UNIVERSE. Mock trial competitors are to advocate as persuasively as possible based on the facts provided. Thus, teams must rely on the facts stated in the Case Problem rather than creating new facts or denying existing facts in order to advantage their parties (an "Improper Invention").

(a) The limitation on competitors to use a closed universe fact pattern does not prohibit the use of generally known, common-sense facts that any person of reasonable intelligence would be expected to know.

Comment to Rule 8.9(1)(a): This rule applies only to basic, well-known facts and not specific, debatable, or contested facts. For example, the fact that the sun rises in the East and sets in the West is a generally known, common-sense fact that any person of reasonable intelligence would be expected to know. On the other hand, the specific time of day that the sun rose or set on a particular day is not a generally known fact.

Rationale: Under a strict interpretation of the invention of fact rule, testimony akin to basic factual knowledge (such as the sun rising in the East) could be violations of the rule if the fact is not specifically enumerated in the case packet.

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It is an unreasonable expectation for competitors to not acknowledge such basic, well-known facts, and it is an unreasonable expectation for the case committees to enumerate every potential well-known fact in our cases. This rule addition, along with the comment, specify that the invention of fact rule is targeted towards invention of specific facts material to the case and is not intended to foreclose acknowledgement of basic facts of life that every reasonable person should understand.

CRC-02: Motion by Scher to add the following to the end of Rule 8.9(6)(c):

Rule 8.9 Invention of fact.

(6) POST-TOURNAMENT REVIEW

(c) Review Procedure. Any allegations of an egregious Improper Invention must be brought to the attention of the Competition Response Committee by submitting the Competition Response Committee Form on the AMTA website by 12:00 noon Central time on the Tuesday immediately following the tournament, unless the matter occurred on the final weekend of regionals or the final weekend of ORCS, in which case the deadline is 4:00 p.m. Central time on the Monday immediately following the tournament. . . . If, after investigation, the Committee concludes that an egregious improper invention of fact did occur, the Committee must report its findings and recommendation to the Executive Committee. The Executive Committee shall review the report of the Competition Response Committee and, upon the Executive Committee's determination of egregious wrongdoing, may issue sanctions against the violating program, team, and/or its individual members. Sanctions may include any sanctions permitted under this AMTA Rulebook. If the CRC finds that a team committed an improper invention of fact, but the invention was not egregious, the CRC may issue a warning. Warnings may be considered by the CRC in determining whether future conduct by the same school constitutes an egregious invention of fact under Rule 8.9. Warnings are not appealable. The CRC may create a public version of the warning but shall not identify the warned school or individual by name. **If the CRC finds that no invention occurred, or that the CRC both finds that a non-egregious invention occurred and decides not to issue a public warning summary, the CRC shall provide notice to the complainant team of the rationale for their findings.**

Rationale: Rule 8.9 and its interpretation remains a sensitive and hot topic in the AMTA Community. Under existing rules, the complainant is only made aware of the ultimate findings by the CRC and EC in the event of a sanction going up on the website. If and when a team submits a complaint that the CRC finds to not warrant sanctions, then that team never receives the educational opportunity to better clarify their interpretation of the rules. AMTA should be taking this opportunity to provide clarity to its members, both from a mission

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standpoint and from an administrative one in that follow-on filings may be prevented altogether.

EC-01(a): Motion by Detsky to create a "Distinguished Service to AMTA" Award.

This will be awarded by Board Proclamation on an as-warranted, but not necessarily-annual basis in the discretion of the Executive Committee to a member or members of the AMTA community who go above and beyond to ensure the greatest opportunities and experiences possible to our membership and to carry out AMTA's academic and competitive missions. The award may be bestowed to (1) individual participants, coaches, judges, hosts, volunteers; (2) groups, programs, teams; or (3) other persons or organizations that meet the criteria.

EC-01(b): Companion Motion by Detsky to present the new Distinguished Service to AMTA award to Missi Watt, Will Warihay and Brandon Harper.

Rationale: Brandon, Will and Missi put the fate of the 2020-2021 on their shoulders. We all worked hard. There are countless to thank. But these three made it happen. The countless hours, phone calls, meetings, programming, preparing, testing, volunteering, organizing, planning, coordinating - it was endless, thankless, and - because they did such an amazing job - we will never know how much they had to do behind the scenes to make everything seamless. As a result of their exemplary dedication, they gave 699 teams a season with impeccable quality, ample judging, a new improved balloting system with increased capacity, where everything worked as perfectly as could be hoped. If there was ever an act of selflessness for the AMTA community to warrant creating a formal award, this is it. Thank you all.

EC-03 Motion by Eslick to repeal Rule 10.6.2 and to make Rule 10.6.3 permissive.

Rationale: This is to bring the rules into conformity with practice.

EC-04: Motion by Holstad to Direct Implementation of Mobile Balloting.

The Executive Committee shall be directed to work with the creator of the AMTA online Tournament Administration System (TAS) to develop a mobile version of the TAS which may be used for the 2022 AMTA Tournament Season. The Executive Committee shall have the goal of having development complete by the mid-year AMTA Board Meeting.

Rationale: The TAS system was incredibly useful, and if optimized for mobile usage AMTA could substantially streamline in-person tournaments. While it may be too difficult to get scoring and comments on a mobile platform, mobile

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scoring should be possible (and I believe a number of judges at the online tournaments this year used their mobile devices/iPads to score and comment).

EC-06: Motion by Gelfand, Langford, Haughey, Halva-Neubauer, Parker, and Detsky to amend Section 4.03.02 of the Bylaws as follows:

Section 4.03.02. Directors Emeriti Selection Process.

Former directors who served on the Board for at least five years are eligible for consideration as Directors Emeriti. A current member of the Board must prepare a letter of nomination, submitted to the Chair of the Nominations Committee (or the EC, depending on the result of a straw poll on this matter), by March 1. The Nominations Committee should evaluate the contributions of the nominee toward advancing AMTA's mission. **The Nominating Committee shall communicate its decision to the Board on or before April 15. The Nominating Committee's decision shall be affirmed or rejected by a vote of a majority of the full Board during Executive Session at the Board Meeting in July.** Individuals who receive the designation of Director Emeritus hold that title unless the Nominating Committee recommends to the Board that the individual be stripped of the title. The Nominating Committee may act to remove a Director Emeritus status at any point in time. The title of Director Emeritus can be stripped only by a 2/3rds majority vote of the Board.

Rationale: Currently, the procedure for nominating and removing a Director Emeritus is inconsistent and illogical. The nomination process solely involves the Executive Committee/Nominating Committee without any input from the Board whatsoever. A Director Emeritus then holds that position until they pass away or are removed not by the Executive Committee/Nominating Committee, but by two-thirds of the Board itself. It makes sense for the Board to have a voice in deciding who becomes a Director Emeritus. Indeed, anybody who is nominated likely worked with most, if not all, who are currently serving on the Board. This motion seeks to ensure that anybody who is honored as a Director Emeritus has the support of the majority of their colleagues, and that somebody who would garner majority support, but whose nomination is rejected by the Nominating Committee is given the opportunity to do so.

EC-07: Motion by Scher to revise Rule 3.6 by eliminating it in its entirety and replacing with the below:

Rule 3.6 Student Eligibility Requirements.

- 1. GENERAL RULE.** For a student to compete at an AMTA Sanctioned Tournament, a student must meet both (a) its school's eligibility requirements, and (b) AMTA's eligibility requirements as laid out under this rule.
- 2. SCHOOL ELIGIBILITY REQUIREMENTS.** In order for a student to compete at an AMTA Sanctioned Tournament, a student must meet its

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own member school requirements to participate in the Sanctioned Tournament at the time it is taking place. The burden to confirm student eligibility is further described in Rule 3.7.

3. **AMTA ELIGIBILITY REQUIREMENTS.** In order for a student to compete at an AMTA Sanctioned Tournament, a student must (a) be a qualified student as defined under 3.6(4), (b) neither have taken nor are currently taking law school coursework that does not go towards an undergraduate degree, and (c) has not already participated in an AMTA Sanctioned Tournament in five separate years.
4. **AMTA QUALIFIED STUDENTS DEFINED.** A student must fall into one of the following categories as of the time of the AMTA Sanctioned Tournament they seek to participate in:
 - a. Current Undergraduate who has not received a Bachelor's Degree or equivalent, is enrolled at a registered school, and is enrolled at least part-time.
 - b. Early Graduate who was a "current undergraduate" as of October 15th in a given season, has since ceased enrollment because they have completed coursework to obtain their degree, and has not matriculated in a graduate or professional school.
 - c. Accelerated Program Student who has ceased enrollment as an undergraduate because they have completed coursework to obtain their degree, and is enrolled in a graduate or professional program within the same institution that they completed their undergraduate coursework; no student may qualify under this category for more than 2 seasons.
 - d. Student on Leave: A student who would otherwise meet a Qualified Student category if not for having taken a leave of absence from their school; no student may qualify under this category for more than 1 season.
 - e. Candidate for Additional Undergraduate Degree who already holds an undergraduate degree but is pursuing coursework in another baccalaureate program, or who is pursuing undergraduate coursework that can count towards a secondary baccalaureate degree; no such student may be concurrently enrolled at any time in a graduate or professional school.
5. **PROOF OF ELIGIBILITY.** In addition to the obligation to verify eligibility under Rule 3.7, should any student pursue qualification under categories 3.6(4)(b), 3.6(4)(c), 3.6(4)(d), or 3.6(4)(e) they must provide the following to the AMTA Rules Committee Chair to confirm their eligibility:
 - a. Summary: A summary of their current enrollment situation and request for determination of eligibility
 - b. Proof: A letter from a school administrator confirming both (1) that at the time of the Sanctioned Tournament the student will be eligible to participate under its school's own rules, and (2) that the student falls into one of the related AMTA Qualified Student categories 3.6(4)(b), 3.6(4)(c), 3.6(4)(d), or 3.6(4)(e);

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alternatively a student may provide proof in the form of enrollment documentation and publicly available school policy declaring them eligible for participation in undergraduate extracurricular activities with such enrollment status.

- c. **Timing:** Materials must be received at least 10 days prior to the start of any sanctioned tournament
- 6. INTERPRETATION.** The AMTA Rules Committee Chair shall serve as the primary point of review for eligibility assessment; the Rules Committee Chair can (a) approve the request, with concurrence from the President, (b) deny the request while offering an appeal to the Executive Committee for review, (c) forward the request to the Executive Committee for review and determination, or (d) request further information prior to rendering an eligibility determination.
- 7. EXTRAORDINARY CIRCUMSTANCES.** The AMTA Executive Committee is empowered to interpret the rules of student eligibility and grant exceptions when, in its judgement, extraordinary circumstances make an exception appropriate; competitive advantage shall not be considered an extraordinary circumstance.
- 8. MULTIPLE INSTITUTION ENROLLMENT.** If an individual meets qualifications for multiple member schools, they shall be eligible only for the school at which they are enrolled for the most credits; if the volume of credits is equal, the student may select which school they will compete for. A student may only compete for only one school in any given season.

Rationale: Rule 3.6 has grown increasingly confusing and features numerous inconsistencies around requisite proof; moreover, the process for determination of eligibility has evolved yet is not reflected in the rule. This revision changes no general eligibility element, but does formalize a process to secure an eligibility determination in any 'edge' case, and establishes equitable requirements for proving that eligibility.

EC-o8: Motion by Scher to amend Rule 3.6(2)(b)(i) as follows:

Rule 3.6 Student eligibility requirements.

(2) GENERAL RULE

(b) Early graduate. This includes an individual who

- i. was a "current undergraduate" as of ~~October~~ **January** 15 in a given season.

Rationale: There is a substantial discrepancy among institutions in whether they allow students that have graduated during a fall term to participate in student activities in the winter/spring terms. This discrepancy has created an unequal playing field for our member institutions, and in edge cases may encourage unusual academic behavior.

EC-21: Motion by Parker to Amend Rule 10.3.5 as follows:

Rule 10.3.5 Competition Response Committee duties and procedures.

(1) COMPOSITION. The Competition Response Committee ("CRC") shall consist of a chair, the Tournament Administration Committee Chair, the Rules Committee Chair, **the Ethics and Professionalism Committee Chair**, the Case Committee Chair for the current case problem, the Ombudsperson and the President.

Rationale: Rule 10.3.6 establishes the Ethics and Professionalism Committee (EPC) and states: "The EPC's mission is to improve the condition of ethical conduct and professionalism in all aspects of college mock trial by developing and implementing strategies that are consistent with the educational mission and goals of AMTA and to emphasize the ideals of mock trial as described in Rule 1.5, particularly by fostering greater acceptance of the values of respect, fairness, civility, honesty, and responsibility. The EPC shall work to educate, on a continuing basis, all AMTA members about such policies in the AMTA Rules, including the development of best practices and creative tools for promoting ethical conduct and professionalism."

Perhaps the most direct way in which AMTA educates its competitors as to what is or is not ethical in competition is by the rulings and written guidance of the Competition Response Committee. A significant portion of the CRC's docket in recent years has involved ruling on allegations of ethical violations in competition, most notably egregious-invention complaints under Rule 8.9.

To carry out its charge in Rule 10.3.6, the Ethics and Professionalism Committee should have a seat at the CRC table during discussions of egregious-invention complaints and other rule violations that frequently have an ethical component and result in dissemination of information designed to "educate, on a continuing basis, all members about such policies in the AMTA rules."

RULES-01: Motion by Detsky to change our timing system so that teams are allotted 64 minutes to be allotted as they deem fit.

The 64 minutes shall include pre-trial, openings, closings, directs, crosses and any re-directs or re-crosses. Timing shall be stopped for objections. Requesting breaks shall not be included.

TAC-01: Motion by Detsky to allow judges to use their cell phone or an electronic device so as to use the new electronic ballot.

Rationale: The Tournament Administrative System is a work of art. It increased transparency. It verified calculations for accuracy, Students got their comments immediately, Students got their scores immediately. It is the future. I don't know if there is a way to create an app or something that allows the ballot to work while also preventing the judge from getting calls or texting,

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but this technology born out of COVID is something that can be embraced, built out - dare I dream of a day when this system can autofill a tab summary?

TAC-02: Motion by Detsky to authorize TAC to move tournaments to Zoom or equivalent in the event a tournament is unable to proceed or cannot proceed without significant risk.

"Significant risk" is intended to cover major weather events, loss of power or running water at tournament site or other unforeseen event.

TAC-03: Motion by Eslick to do each of the following:

(a) Amend Rule 2.4(1) as follows:

Rule 2.4 Registration Fees.

(1) ANNUAL MEMBERSHIP FEE PER SCHOOL. Each school shall pay an annual membership fee of \$450. ~~Any school hosting an AMTA-sanctioned tournament shall have this fee waived for the academic year in which the school hosts;~~

(b) Revoke the invitational license exemption applicable to hosts of AMTA-sanctioned tournaments.

(c) Amend Rule 5.11 as follows:

Rule 5.11 Compensation for regional tournament host. Absent other arrangements, AMTA shall provide each regional tournament host with ~~\$3,250~~ **\$4,000** for hosting a regional tournament. Shall any regional host have fewer than 18 teams assigned as of December 1, that regional host shall get a flat stipend of ~~\$2000~~ **\$2,750**. . . .

(d) Amend Rule 5.18.1 as follows:

Rule 5.18.1 Compensation for opening round championship tournament host. Absent other arrangements, AMTA shall provide each opening round championship tournament host with ~~\$6,000~~ **\$7,000** for hosting an opening round championship tournament.

Rationale: AMTA does not require hosts of AMTA-sanctioned tournaments to sign contracts in exchange for host stipends. The wisdom of this policy is debatable (in part because we can't sue on a contract to get the money back if there is no tournament, but also because we can't force hosts to spend the money on the tournament). However, it would be impractical (if not impossible) to require more than 40 universities to sign contracts. In 2020, three ORCS tournaments were cancelled due to COVID. One host--who spent stipend money on general program expenses other than a tournament--refunded the entire stipend, and two others agreed to apply the 2020 stipend to future tournaments (they each used \$1,000 of the \$6,000 balance in 2021). All three hosts took advantage of the \$450 fee waiver.

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The problem with the perks this motion eliminates is two-fold. First, if a host doesn't actually host a tournament, that school takes advantage of the program and IP waivers (even if they don't get a stipend). Second, not everyone who wants to be a host gets to be one. The availability of perks that are completely unrelated to hosting that are available to some schools and not others creates a perception of self-dealing in situations where Directors are affiliated with tournament hosts.

This motion consolidates the perks into an increase in the stipend, so it is designed to be cost-neutral. It is intended to eliminate not only the perception of unfairness for doling out perks, but also to eliminate the non-trivial bureaucratic task of keeping track of who uses which waivers. This motion also furthers the goal of IP Policy Rule 2.3, which states that the invitational license fee should be used to enhance certain host stipends.

Note that I cannot find the invitational license exemption in the rules. There was a motion passed in 2018 that teams should be "reminded" of the exemption, but I cannot actually find it in the rules or the IP policy.

TAC-04: Motion by Holstad to Amend Rule 5.20.1 as follows:

Rule 5.20.1 Judges for the opening round championship tournament.

The hosts of the opening round championship series tournaments shall be ~~authorized, but not required,~~ to recruit sufficient judges so as to permit the use of three; ~~or four, or five~~ scoring judges in every trial at the tournament. The AMTA Tabulation Director, in consultation with the AMTA Tournament Administration Chairperson, shall make the final decision as to whether three; ~~or four, or five~~ ballots per round will be used at any particular opening round championship series tournament. When possible, the decision will be made **at least forty-eight hours** prior to the start of the tournament's opening ceremony, but in all events it must be made **at the opening ceremony, or, if there is no opening ceremony,** prior to the start of the first round. Should the AMTA Tabulation Director make such a decision, s/he will modify the rules as necessary to adapt to a tournament with three; ~~or four, or five~~ scoring judges per round. **If such rule modifications are necessary, AMTA will announce the modifications as soon as practical to the participants in the affected tournament.**

Rationale: AMTA is getting better at recruitment, and ORCS are becoming more and more competitive, so we should require at least three judges at every ORC. As we've seen from the online experience, however, when we add too many more judges past three or four, we risk sacrificing quality for quantity. Keeping a limit on ORCS judges at 4 allows for a little bit of flexibility for hosts who are proficient at recruitment to take advantage of the extra judge slots. Requiring 3 or 4 also maintains greater consistency across the ORCS tournaments.

TAC-05: Motion by Woodward to amend Rule 5.25.1 as follows:

Rule 5.21.1 Judges for the national championship tournament. All non-final round trials at the national championship tournament shall be scored by three judges. The host of the national championship tournament shall be authorized, but not required, to recruit sufficient judges so as to permit the use of three, four, or five scoring judges in every non-final round trial at that tournament the national championship. The AMTA Tabulation Director shall make the final decision as to whether three, four, or five ballots per round trial will be used. The decision will be made at or prior to the start of the tournament's opening ceremony. Should the AMTA Tabulation Director make such a decision, s/he will modify the rules as necessary to adapt to a tournament with three, four, or five scoring judges per round. **four or five ballots per round be used, the Tabulation Director will notify the Representatives of any necessary rule modifications.**

Rationale: In 2012, the Board amended this rule to allow for more than 2 ballots at NCT, but it is not required. Of course, every single Championship since then has had at least 3 scored ballots, with Philadelphia and this year's online NCT having 4 ballots and Greenville having 5 ballots. 3 ballots per round at NCT should be more than a community expectation; it should be required by rule.

TAC-06: Motion by Holstad to alter AMTA regional tournament structure as follows:

1. Cap AMTA's Regional Tournaments at 576 teams, with a set number of 24 regionals consisting of 24 teams each.
 - Allocate 516 of the 576 Regional Tournament placements for regularly registered A, B, and C teams, except as detailed below.
 - Allocate 60 of the 576 Regional Tournament placements for teams who earn bids to Regionals via a new "First Round" Tournament.
 - If there are less than 516 teams which would be allocated to the Regional Tournaments (as described below), those allocations shall become Open Bids to Regionals.
2. The new First Round tournaments shall take place online via Zoom during the month of November, on the two weekends immediately preceding Thanksgiving. If necessary, the first weekend of December may also be used to host First Round tournaments.
 - An equal number of teams shall be assigned to each First Round tournament.
 - AMTA shall have the goal of having First Round tournaments with 24 teams each. AMTA shall adjust the number of tournaments and team numbers as necessary to maintain equal team numbers at each First Round tournament.

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- An equal number of First Round tournaments shall be held on each First Round weekend.
3. The 60 bids to the Regional Tournament shall be equally allocated to each First Round tournament. If the number of First Round tournaments does not allow for an equal allocation of bids, then the most number of equal bids shall be assigned to each tournament with the remainder converting to Open Bids to be awarded based on AMTA's existing Open Bid protocols.
 4. The following teams shall, upon registration, be automatically registered to compete in the First Round:
 - All teams that are "New" pursuant to AMTA's definition.
 - All teams which have won 3 or less ballots at three consecutive Regional Tournaments.
 - All teams designated as "D" or above.
 5. The following teams may, at the time of registration, "opt down" and choose to register to compete in the First Round:
 - Any team which has won 3 or less ballots at two consecutive Regional Tournaments.
 - Any team which has won 4 or less ballots at three consecutive Regional Tournaments.
 6. If, at the registration deadline, and after all teams have made their decisions about whether to opt down to the First Round, there are more than 516 teams which would bypass the First Round and be directly assigned to Regional Tournaments, the following teams shall be automatically allocated to the First Round if they have not already opted down:
 - Any team which has won 3 or less ballots at two consecutive Regional Tournaments.
 - Any team which has won 4 or less ballots at three consecutive Regional Tournaments.

In conjunction with this motion, the registration deadlines shall be amended as follows:

1. The registration deadline shall be October 31. There shall be no late registration.
2. If a team wishes to compete in AMTA's tournaments and would not be eligible to be registered for the First Round according to the process described above, such team may request from AMTA a "pending registration."
 - A pending registration will reserve that team's spot in the Regional Tournaments. A pending registration must be converted to a complete registration by December 31 in order to

APPENDIX B: TABLED MOTIONS

compete at the Regional Tournaments. Failure to do so shall convert the pending registration into an Open Bid.

Here is the practical result of the motion described above:

1. **AMTA First Round Tournaments - November**
 1. X tournaments of 24 teams each (number of tournaments depending on number of teams registered)
 1. X bids to Regionals from each tournament (number of bids depending on number of teams registered)
 2. 60 total bids to Regionals
2. **Regional Tournaments – January/February**
 1. 516 automatic spots in Regionals + 60 bids from First Round Tournaments
 2. 24 tournaments of 24 teams each
 1. 8 bids to ORCS from each tournament
3. **Opening Round Championship Series - March**
 1. 8 tournaments of 24 teams each
 1. 6 bids to NCT from each tournament.
4. **National Championship - April**
 1. 1 tournament of 48 teams

*Rationale: There are two main issues with our current regionals system. **First**, there are the obvious logistical problems that everyone knows. We are getting more teams, and we are more strapped to find quality hosts for in-person tournaments. A Zoom season of mock trial has shown us that we have a cheaper, easier-to-administrate tournament system that can dramatically ease the logistical burden of in-person regionals while still giving teams a worthwhile competitive experience. With this system, the uncertainty of bids/teams is placed at the first round level which has greater flexibility given the online nature. **Second**, there is also a less talked about problem: there is an increasing disparity among new/lesser performing teams at Regionals and the teams expected to make it to ORCS every year. There are a lot of programs that go to Regionals as their only tournament of the year, and it does not benefit them to get shellacked by perennial national contenders. Those rounds have a negative educational impact because they do not help weaker teams improve, and they do not help the stronger teams improve their competitive ability. Giving new and lesser-performing teams a tournament where they are more likely to be paired with similar competition in a lower-stakes, less power imbalanced situation would serve our educational mission to lesser performing schools while not compromising the Regional Tournaments' role in our competitive structure that is designed to find a National Champion. In addition, this system will expand mock trial's access to schools without the resources to travel as a new program because they will be able to compete via Zoom.*

APPENDIX B: TABLED MOTIONS

TAC-07: Motion by Jahangir to direct the Tournament Administration Committee to amend the language of Rule 5.22 to provide a designation for competitors earning individual awards at ORCS, with the proposed amendments to be presented at the mid-year meeting.

Rationale: Currently, the AMTA Rulebook provides designations for competitors who earn individual awards at Regionals and at the NCT. However, the Rulebook remains silent on the designation for competitors who earn individual awards at ORCS. This issue was previously raised at the 2019 Board Meeting in Cincinnati and was postponed to a definite time of the subsequent 2019 mid-year meeting, but the issue was not reraised. So this motion hopes to once again tee up that issue.



**American Mock Trial Association
2020 Mid-Year Board Meeting Minutes
December 13, 2020, 12:00pm EST
Via Zoom**

I. Call to Order

Attendance:

Members present (29): Ben-Merre; Bernstein; Braunsberg; D'Ippolito; Detsky; Eslick; Gelfand; Halva-Neubauer; Harper; Haughey; Heytens; Hogan; Holstad; Johnson; Langford; Leapheart; Leckrone; Michalak; Minor; Olson; Parker; Schuett; Sohi; Thomason; Walsh¹; Warihay; Watt; West; Woodward

Members not present (0)

Candidate Members present (5): Feak; Henry; Jahangir; Mundy; Scher; Smiley

Candidate Members not present (0)

Staff & Guests (1): Doss

II. Welcome and Remarks (Harper)

III. Format of Agenda:

Delivered by Secretary – D'Ippolito

Pursuant to Rule 10.2.1 of the AMTA Rulebook, all motions submitted were referred to the corresponding AMTA committee. All motions are referenced numerically by the abbreviation of the AMTA committee to which the motion was referred (*e.g.*, EC-02 or TAB-03). Each committee had the option of (1) tabling the motion; (2) amending the motion; or (3) substituting the motion. Tabled motions retained their original designations, but are provided in an appendix. Motions could be advanced with recommendation or without. The Executive Committee subsequently set the final motion agenda order, subject to agenda amendments made at the Board meeting.

Motions appear in red and bolded. The decision of the respective committees follows each motion **IN BOLD BLUE, CAPITAL LETTERS AND UNDERLINED.** Motions that have been recommended by committee do not need to be seconded at the

¹ Pursuant to Section 4.13.01 of the Bylaws, Directors Holstad and Walsh are both affiliated with Loyola University Chicago. Therefore, and pursuant to Bylaw Section 4.13, Walsh served as a Voting Director during the Board Meeting, and Holstad served as a Non-Voting Director.

meeting. Motions forwarded without recommendation require a second. For a motion to be adopted, it must have received a majority of the votes cast at a meeting at which quorum is present. See AMTA Bylaws, Section 4.10. Motions to amend the Bylaws required an affirmative vote of two-thirds of the Voting Directors. See AMTA Bylaws, Section 8.02.

Appended to the Agenda as **Appendix A** is a list of tabled motions. These motions were tabled by the reviewing committee and will not be considered by the Board for action. To “untable” a motion, five or more members of the Board (not including the motion’s author(s)), must request that the motion be considered. If such request is made, the full Board may vote on whether to overturn the Committee’s recommendation to table. A motion to overturn the Committee’s recommendation to table must be passed by a majority vote of the Board. ***Taking a motion off the table and placing it on the agenda alone does not result in adoption of the motion.*** A separate vote will be necessary on whether to adopt the motion.

Appended to the Agenda as **Appendix B** are the minutes from the July 2020 Board meeting.

IV. Approval of Agenda

Motion to approve the agenda. Motion passes.

V. Approval of July 2020 Board of Directors Meeting Minutes.

Motion to approve the July 2020 Meeting Minutes. Motion passes.

VI. Consideration of Tabled Motions

For procedure to “untable” a motion, please see discussion of Appendix B above. If a motion is “untabled,” it will be taken up in the order it would have appeared in the Agenda. (e.g., EC-05 would be discussed after EC-04).

VII. Committee Reports

- A. Academics Committee (Bernstein): Written report**
- B. Accommodations Committee (Michalak): Oral report**
- C. Analysis Committee (Jahangir): Written and oral report**
- D. Audit Committee (Parker): Written report**
- E. Budget Committee (Eslick): Oral report**
- F. Civil Case Committee (Gelfand): Written report**
- G. Criminal Case Committee (Schuett): Written report**
- H. Communications Committee (Scher): Written report**
- I. Competition Response Committee (Thomason): Written report**
- J. Development Committee (Scher): Written report**
- K. Disciplinary Committee (Warihay): Oral report**
- L. Diversity and Inclusion Committee (Leapheart): Written report**
- M. Ethics and Professionalism Committee (Holstad): Oral report**

- N. **Human Resources Committee (D'Ippolito): Written report**
- O. **NCT Case Committee (Haughey): Written report**
- P. **New School Recruitment and Mentorship Committee (Olson):
Written report**
- Q. **Rules and Intellectual Property Committee (Walsh): Written
report**
- R. **Strategic Planning Committee (Warihay): Written report**
- S. **Student Advisory Board Committee (Feak & Sohi): Written
report**
- T. **Tabulation Advisory Committee (Woodward): No report**
- U. **Tournament Administration Committee (Watt): Written report**

VIII. Motions:

EC-05: Motion by Heytens and Watt to announce that the 2021 National Championship Tournament will be held online.

Rationale: The pandemic doesn't seem to be going anywhere fast and schools are already announcing that spring semesters will be held online.

ADVANCED WITH A POSITIVE RECOMMENDATION

Motion passes.

EC-06: Motion by Warihay to permit the use of virtual backgrounds during trials held on Zoom, provided that any such virtual background consists only of a solid color.

Rationale: We cannot presume that all students have a suitable location to compete in a trial, so as long as virtual backgrounds are otherwise consistent with our rules, we should permit them to provide the widest access to mock trial during an online season.

ADVANCED WITH A POSITIVE RECOMMENDATION

Motion by Gelfand to amend EC-06 to permit students to use only virtual backgrounds that AMTA provides or approves. Seconded.

Motion by Olson to amend the amendment to remove the words "or approves." Seconded. **Motion passes.**

Motion to amend fails.

Motion by Warihay to substitute EC-06 as follows:

“[T]o permit the use of virtual backgrounds during trials held on Zoom, provided that any such virtual background is otherwise consistent with AMTA rules, including demonstrative aids (Rule 8.5) and invention of fact (Rule 8.9).”

Motion by Bernstein to amend the substitution to add the following language:

“[T]o permit the use of virtual backgrounds during trials held on Zoom, provided that any such virtual background is otherwise consistent with AMTA rules, including demonstrative aids (Rule 8.5) and invention of fact (Rule 8.9). **Virtual backgrounds shall be disclosed at captains’ meetings.**” Seconded. **Motion to amend the substitution passes.**

Motion to substitute as amended passes.

Motion as substituted passes.

RULES-03: Motion by Warihay to require that, during trials held on Zoom, all examinations must be conducted through the Zoom meeting, meaning that the attorney and the witness must be in separate rooms on a separate camera and device during the examination. This does not necessarily mean that each competitor must be separated, but means that at a minimum, the attorneys and witnesses must be in separate rooms/spaces. Beyond this restriction, teams are permitted to prepare their trial setups as they see fit, along with considering any local and/or school safety regulations and/or guidance.

Rationale: Regardless of time restrictions, in general, doing mock trial through Zoom takes longer than a normal in-person conversation. Therefore, we should restrict teams ability to conduct a direct examination in-person on the same camera and in the same room, as this provides an advantage to the teams able to do this due to local, state, and/or school regulations. On the other hand, we should not presume that each individual student has a location where they are able to compete. Therefore, we should permit the students freedom to otherwise gather or coordinate in a single location, so long as they conduct any questioning through the Zoom. With these competing interests, this motion strikes the balance between the two.

ADVANCED WITH A POSITIVE RECOMMENDATION

Motion passes.

RULES-04: Motion by Warihay to repeal Rule 8.5(2) of the AMTA Rulebook solely for the 2020-21 AMTA season. Teams are permitted to prepare electronic demonstrative aids that are otherwise consistent with the AMTA Rulebook (most specifically Rules 8.5 and 8.9) and the Midlands Rules of Evidence.

Rationale: This corrects a technicality in the rulebook with regard to online mock trials and confirms the teams’ ability to use technology to develop and create their demonstrative aids. Similar to in-person trials, wherein we do not otherwise prohibit the manner or method of demonstrative aids. In online mock trial, we should not otherwise restrict the teams abilities to develop demonstrative aids. Essentially, we should maintain the same rule, with the exception of removing the electronic restrictions for this season.

ADVANCED WITH A POSITIVE RECOMMENDATION

Motion passes.

RULES-05: Motion by Warihay to require that, during trials held on Zoom, teams provide pre-trial notice of demonstrative aids as follows:

Pursuant to Rule 4.12(3), teams must use the "Screen Share" function in Zoom to provide pre-trial notice of any demonstrative aid being used in the trial.

Pursuant to Rule 8.5(1), each team must make a demonstrative aid available to the opposing attorneys for subsequent use during examination of witnesses and closing argument. Each team must permit their opposing team an opportunity to screenshot any demonstrative aid used in trial. If Team 1 does not have the ability to screenshot, then Team 2 must either agree to screen share Team 2's demonstrative aids for Team 1 on request, or Team 2 must email a copy of Team 2's demonstrative aids to Team 1 during Captains' Meeting.

Rationale: This proposes a manner and method for the logistics of sharing demonstrative aids in the online mock trial world. This motion attempts to capture our current practice regarding permitting use of opposing teams demonstratives aids in a virtual format.

ADVANCED WITH A POSITIVE RECOMMENDATION

Motion by Holstad to amend as follows:

Pursuant to Rule 8.5(1), **upon request, each team must email a copy of all demonstratives to the opposing team during Captains' Meeting.** ~~each team must make a demonstrative aid available to the opposing attorneys for subsequent use during examination of witnesses and closing argument. Each team must permit their opposing team an opportunity to screenshot any demonstrative aid used in trial. If Team 1 does not have the ability to screenshot, then Team 2 must either agree to screen share Team 2's demonstrative aids for Team 1 on request, or Team 2 must email a copy of Team 2's demonstrative aids to Team 1 during Captains' Meeting.~~

Motion to amend fails for lack of a second.

Motion passes.

RULES-07: Motion by Walsh on behalf of the Rules Committee² to amend the AMTA Invention of Fact Guidance Memorandum dated December 20, 2019 to add the following language within Section I, Paragraph 2:

Under Rule 8.9, there are precisely two kinds of improper inventions. First, “[a]ny instance,” regardless of which party is questioning the witness, in “which a witness introduces testimony **or portrays/characterizes the witness in a way** that contradicts the witness’s affidavit” is an improper invention. Second, “[a]ny instances on direct or re-direct examination in which an attorney offers, via the testimony of a witness, material facts not included in or reasonably inferred from the witness’s affidavit,” also is an improper invention. For purposes of these restrictions, Rule (8.9(4)(c)(iii)) defines "affidavit" to be any document in which the witness has set forth the witness' " beliefs, knowledge, opinions or conclusions." For example, a police report, expert report, CV, or even a map or drawing created by a witness all constitute an "affidavit" for the purpose of this rule.

ADVANCED WITH A POSITIVE RECOMMENDATION

Motion by Woodward to substitute RULES-07 to motion to add the words “or portrays/characterizes the witness in a way” to Rule 8.9(4)(a)(i) of the AMTA Rulebook. Seconded. **Motion to substitute passes.**

Motion by Braunsberg to refer RULES-07 to the Rules Committee. Seconded. **Motion to refer fails.**

Motion passes as substituted.

IX. Unfinished/New Business

ETHICS-01: Motion by Ethics Committee for the creation of an online form accessible from the AMTA website which allows for submission of ethical questions, comments and concerns as they arise.

At mid-year meeting, this motion was referred back to the Ethics Committee for formulation of details how this proposal would be implemented. Below are the details as approved by the Ethics Committee:

1. The Ethics Committee would maintain a Google form link on the Resources page (under the existing CRC complaint link).
2. The questions on the form are included below.

² During the July 2020 Board meeting, the Board referred then-RULES-03 (calling for amending Rule 7.14 of the AMTA Rulebook) to the Rules Committee for additional consideration. In lieu of moving to amend Rule 7.14, the Rules Committee advances RULES-07.

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3. Within two days of receiving an ethical violation report or question through the form, the Ethics Committee has the following options:
 1. If it is clear from the submission that the issue is not an ethical issue, the Ethics Committee may simply inform the complainant that there is no reason for the Ethics Committee to conduct an analysis or, if necessary, refer the complainant to the appropriate committee or avenue to report its issue (e.g., if the issue is clearly an invention of fact complaint, the Ethics Committee may refer the complainant to the CRC link).
 2. If the issue touches on ethical concerns, the Ethics Committee shall investigate the issue or analyze the question.
 1. Timing: If the Ethics Committee determines that more information is needed, the party/ies receiving such request shall have no more than 72 hours to provide the requested information to the Ethics Committee.
4. If the Ethics Committee does investigate the issue, the Ethics Committee shall resolve the investigation in one of the following ways:
 1. Inform the complainant that, after completing the investigation, the conduct does not arise to an ethical violation.
 2. If the conduct does amount to an ethical violation, issue a private reprimand to the offending party.
 3. If the Ethics Committee feels that, after investigation, the conduct arises to more than an ethics violation and could potentially be a rules violation, the Ethics Committee shall refer the matter to the Executive Committee for resolution consistent with the AMTA Rulebook.
5. If the Ethics Committee receives a number of complaints resulting in private reprimands on the same issue or topic, the Ethics Committee shall, with the approval of the Executive Committee, write a memo addressing the conduct - without identifying any individual or school - that shall be published to the AMTA community.

Google Form Questions:

1. School Name and Number
2. Please review the following definition of ethical conduct which appears in Rule 10.3.6 of the AMTA rulebook: “Ethical conduct is a set of guiding principles with which each person follows the letter and spirit of the rules. Such conduct reflects a higher standard than law because

it includes, among other principles, fundamental values that define professionalism”

3. Please state your question or describe your complaint, comment or concern. Please cite the specific AMTA Rules that you believe applies to your question or issue. Be as specific and precise as possible.
4. Do you have any documentary or video evidence which applies to this issue? If yes, please explain.
5. Are there any additional people that you believe the EPC should contact?
6. Is there any additional information that you believe the EPC should have? If so, please describe.
7. Please affirm that all of the information you provided above is true to the best of your knowledge, and that your intent in raising this issue is only to ensure that the AMTA Rules are followed.

Rationale: A forum and process for students to ask ethical-related questions and report conduct that is problematic but not strictly and invention of fact (or other violation) would allow for more immediate awareness of ethical issues along the circuit and more prompt remedial action, if necessary. This forum is necessary to address issues that fall within the realm of professionalism and fairness that AMTA seeks to impart on students and the greater community, consistent with AMTA Rules 1.5 (“The ideals of fair play, civility, and friendship shall guide the conduct of all participants throughout all mock trial activities...”) and 1.6 (“Participants shall strive to exemplify the highest ideals of the legal profession, to maintain the highest standards of ethical conduct and to strive for competence and integrity.”).

Motion by Ben-Merre to refer ETHICS-01 to the Executive Committee, in consultation with the Ethics Committee, for further review. Seconded.

Motion to refer passes.

X. Adjournment

Motion to adjourn. Motion passes.

Appendix A: Tabled Motions

RULES-08: Motion by Walsh (on behalf of Alan Medvin, Anna Eldridge, and Ben Garmoe) to limit hostile witness portrayals.³

Proposed rule: Students may play witnesses who are reluctant to testify and/or reasonably hesitant to offer testimony adverse to a particular side or party. However, the student attorney conducting the direct examination of a witness may not, in any case, move the court to declare a witness as hostile or adverse for the purpose of leading the witness.

Rationale: Summary—The proponents of this rule essentially view the use of scripted hostile witnesses as a way to “game the system” and thus place a team at a competitive disadvantage in a variety of respects as detailed below. As such, we do not believe it is consistent with the values that AMTA attempts to promote. While recognizing the value AMTA places on creativity, we do not believe that such creativity should come at the expense of changing the facts, as skillful advocates are required to take the facts of a particular case as they are and present those facts in a manner most favorable to their clients. More specifically:

A. Each attorney in mock trial is required to conduct a direct and cross examination because the activity contemplates the necessity of showing two separate and unique skills that present different challenges. Cases are often written with an eye toward balance by similarly contemplating the ability to have strong or weak cross options. By scripting out a cross examination through an adverse or hostile witness, students are not demonstrating either the ability to conduct a direct (developing testimony organically through the witness) or cross examination (demonstrating inconsistencies or developing testimony through thoughtful questioning of a witness with whom the attorney cannot guarantee cooperation). While hostile witnesses do exist in real courtrooms, the answers for them are not scripted by the attorney and the opposing attorney is not required to cross them. Given the boundaries of this activity, there does not seem to be a need for practicing this skill.

B. “Scripted” hostile witnesses are inherently deceptive and have the potential to unnecessarily confuse judges. In the “real world” of trials, non-opposing party hostile witnesses are exceedingly rare, and they always come with a risk. However, any such risk is entirely eliminated by having a witness from one’s own team appear to be testifying reluctantly, having the witness declared hostile, and then having the witness respond to leading questions with carefully scripted

³ RULES-08 was initially proposed as NB-03 during the July 2020 Board meeting and was referred to the Rules Committee to prepare a report for the mid-year meeting. The Rules Committee reports that it discussed the motion and decided to seek additional input from the mock trial community. After discussing the motion with the Student Advisory Board (“SAB”) during a November 16, 2020 meeting, the Rules Committee recognized that the majority of the SAB did not support the motion as written. For this reason, and because the majority of the Rules Committee similarly did not support the motion, RULES-08 was tabled.

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answers. While recognizing the value that mock trial places on creativity, the question still must be asked if this type of “deception” is truly within the spirit of fair competition that is always fostered by AMTA.

In addition to such deception, presenting a “hostile” witness in this manner has the potential to be both misleading and confusing. While this is true to a lesser extent with judges with significant mock trial experience, it is certainly true with respect to judges with no or very little experience in mock trial, such as trial lawyers and actual real or retired judges, the type of judges who often judge high level tournaments. It might not always be apparent to them that in reality, every answer given by a “hostile witness” during the direct of that witness has been carefully thought out and prepared.

EC-01: Motion by Eslick to amend Rules to provide that no student deemed eligible by Rule 3.6 should be required or invited to waive any Rule, Policy, or Bylaw of the Corporation as a condition of participation in any AMTA-sanctioned competition.⁴

Rationale: We really shouldn't be doing this.

EC-02: Motion by Eslick to repeal the amendment made to Rule 8.9 of the AMTA Rulebook that the Board passed at the July 2020 Board meeting.

Language added to Rule 8.9 per amendment:

“If the CRC finds that a team committed an improper invention of fact, but the invention was not egregious, the CRC may issue a warning. Warnings may be considered by the CRC in determining whether future conduct by the same school constitutes an egregious invention of fact under Rule 8.9. Warnings are not appealable. The CRC may create a public version of the warning but shall not identify the warned school or individual by name.”

Rationale: A warning is already authorized by the existing rules, which, if issued, requires the CRC to report the finding to the EC (see Rule 8.9(c), last sentence, and Rule 9.2(2)(a)). Rule 8.9(5) says that the “only” remedy for an improper invention that is not egregious is impeachment. There is no post-tournament complaint procedure for non-egregious inventions, and the amendment to Rule 8.9 does not create one. So the rule passed conflicts with other rules in the Rulebook already. If you disagree, then propose some amendments that fix the conflict and pass the next motion.

EC-03: Motion by Eslick (contingent on EC-02 failing) to amend Rule 8.9 as follows:

“If the CRC finds that a team committed an improper invention of fact, but the invention was not egregious, the CRC may issue a warning. Warnings may be considered by the CRC in determining whether future conduct by the same school constitutes an egregious

⁴ Eslick voted to advance EC-01 to the Board with a positive recommendation.

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invention of fact under Rule 8.9. Warnings are not appealable. The CRC may create a public version of the warning but shall not identify the warned school or individual by name. **No warning shall form the basis for any sanction imposed under Chapter 9.**"

*Rationale: If the warnings are non-appealable, non-public, and essentially have no real effect, they shouldn't form the basis for future sanctions. If they **are** intended to have some effect, then pass the next motion.*

EC-04: Motion by Eslick (contingent on the EC-03 failing) to amend Rule 8.9 as follows:

"If the CRC finds that a team committed an improper invention of fact, but the invention was not egregious, the CRC may issue a warning. Warnings may be considered by the CRC in determining whether future conduct by the same school constitutes an egregious invention of fact under Rule 8.9. ~~Warnings are not appealable.~~ **Warnings are appealable pursuant to Rule 9.6.** The CRC may create a public version of the warning but shall not identify the warned school or individual by name.

Rationale: Either warnings mean something or they don't. If they don't, then pass the preceding motion and relegate them to the nothing they already are. If they do, then they should follow the same process, appeal procedures (including an appeal to the full Board), and publishing requirements as actual, real sanctions.

RULES-01: Motion by Gelfand to amend Rules 4.31 and 4.33 to the extent necessary to reinstate the time limits for all portions of rounds that existed prior to the August 23, 2020 ad hoc board meeting, namely:

- (i) all-loss time being 180 minutes;
- (ii) a total of 14 minutes for opening and closing statements;
- (iii) a total of 25 minutes for direct examinations; and
- (iv) a total of 25 minutes for cross examinations.

Rationale: The primary rationale for departing from our pre-existing time limits was that it would be difficult for judges to get through three-hour trials on Zoom. After sitting through several invitationals and scrimmages, it has become clear, at least to me, that any benefit from the shortened rounds is FAR outweighed by the negative effects that the shortened time limits have had on the quality of presentations. Decreasing cross-examination time by 33 percent was especially onerous in rounds that involved an expert and multiple fact-intensive witnesses. I am confident that restoring rounds to three hours will increase the quality of the rounds and will not result in fewer judges being willing to participate.

RULES-02: Motion by Eslick to amend the AMTA 2020-21 Season Guidance form as follows:

Current Language:

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Opening Statement and Closing Argument: 12 minutes total per side

Direct Examination and Cross Examination: 38 minutes total per side

Selecting Time: At captain's meeting, each team must announce, in whole minutes, how much of the 38 minutes it designates for direct examination. The direct examination time selection must be 20, 21, 22, 23, or 24 minutes. The remainder of the 38 minutes will be the team's cross examination time. For example, if a team designates 23 minutes for direct examination, the team will have 15 minutes for cross examination. A team may not carry over unused time from direct examination to cross examination or vice versa. For example, if a plaintiff team designates 24 minutes for direct examination but only uses 19 minutes on direct examination, the team's total cross examination time remains unchanged at 14 minutes.

All Loss: The All-loss time is reduced to 150 minutes.

Proposed Language:

Subject to Rule 7.17 and its cross-referenced rules, each team shall have 12 minutes for opening statements and closing arguments (combined), and 38 minutes for all other elements of the trial to allocate as they wish (for the 2020-2021 season only).

Rationale: It's easier to regulate, easier to implement, and lets teams strategically do what they want. It doesn't impact all-loss or delay tournaments. It preserves rollover time. This motion includes feedback from the SAB.

Appendix B: July 2020 Board Meeting Minutes [Omitted]