



# 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; Walsh<sup>1</sup>; 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

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<sup>1</sup> 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, Holstad served as a Voting Director during the Board Meeting, and Walsh 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 Committee<sup>2</sup>** 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.

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<sup>2</sup> 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.

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-o8: Motion by Walsh (on behalf of Alan Medvin, Anna Eldridge, and Ben Garmoe) to limit hostile witness portrayals.**<sup>3</sup>

**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 answers. While recognizing the value that mock trial places on creativity, the*

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<sup>3</sup> RULES-o8 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-o8 was tabled.

*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.<sup>4</sup>

*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 invention of fact under Rule 8.9. Warnings are not appealable. The CRC may create a*

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<sup>4</sup> Eslick voted to advance EC-01 to the Board with a positive recommendation.

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:*

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



# **American Mock Trial Association 2020 Board Meeting Agenda July 11-12, 2020 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<sup>5</sup>; Johnson; Langford; Leapheart; Leckrone; Michalak; Minor; Olson; Parker; Schuett; Sohi; Thomason; Walsh; Warihay; Watt; West; Woodward

Members not present (0)

Candidate Members present (6): Feak; Henry; Jahangir; Mundy<sup>6</sup>; Scher; Smiley

Candidate Members not present (0)

Staff & Guests (1): Doss

## **II. Welcome and Remarks (Harper)**

## **III. Format of Agenda:**

Delivered by Former Secretary – Pavely

All motions submitted were referred to the corresponding AMTA Committee pursuant to the policy adopted by the Board in 2007 (Rule 10.2.1). 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). The Committees had the option of tabling the motion, amending the motion or substituting the motion. Tabled motions retained their original designations, but are provided in an appendix. Motions could be advanced with recommendation or without. The final motion agenda order was subsequently set by the Executive Committee (AMTA Bylaws, Section 10.2.1) (Subject to agenda amendments made at the board meeting).

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<sup>5</sup> 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.

<sup>6</sup> Mundy was not in attendance on Sunday.

**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. (AMTA Bylaws, Section 4.10). Motions to amend the Bylaws required an affirmative vote of two-thirds of the Voting Directors (AMTA Bylaws, Section 8.02).

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

Appended 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.

Appended to the Agenda as **Appendix C** are the minutes from the December 2017 mid-year conference call/board meeting.

#### **IV. Approval of Agenda**

**Motion to approve the agenda. Motion passes.**

#### **V. Approval of 2019 Mid-Year Board of Directors Meeting minutes**

**Motion to approve the minutes. Motion passes.**

#### **VI. Special Board Elections (At large members of Disciplinary and Human Resources Committees)**

**Nomination of Heytens to Disciplinary Committee by Watt. Motion to elect Heytens by unanimous consent. Motion passes.**

**Nomination of Minor to Human Resources by Bernstein. Motion to elect Minor by unanimous consent. Motion passes.**

#### **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. (i.e., EC-05 would be discussed after EC-04).

## VIII. Approval of Consent Calendar (attached as Appendix A)

**Motion to approve the consent calendar. Motion passes.**

## IX. Committee Reports

- A. **Academics Committee (Leapheart): Written report and supplemental oral report**
- B. **Accommodations Committee (Michalak): Written report**
- C. **Analysis Committee (Hogan): Written report**
- D. **Audit Committee (Harper): Written report**
- E. **Budget Committee (Eslick): Written report**
- F. **Civil Case Committee (Gelfand): Written report and supplemental oral report**
- G. **Criminal Case Committee (Schuett): Written report**
- H. **Competition Response Committee (Thomason): Written report and supplemental oral report**
- I. **Development Committee (Bernstein): Written report**
- J. **Disciplinary Committee (Warihay): Written report**
- K. **Ethics Committee (Langford): Written report and supplemental oral report**
- L. **Human Resources Committee (Harper): Written report and supplemental oral report**
- M. **NCT Case Committee (Thomason): Written report**
- N. **New School and Mentorship Committee (Olson): Written report**
- O. **Rules Committee (Walsh): Written report**
- P. **Strategic Planning Committee (Harper): Written report**
- Q. **Tabulation Advisory Committee (Woodward): Written report**
- R. **Tournament Administration Committee (Watt): Written report**
- S. **Tournament Future Planning Committee (Bernstein): Written report**
- T. **Website, Marketing and Social Media Committee (Scher): Written report**

## X. Motions:

*On Sunday morning, the Board voted to enter Executive Session. Votes taken during Executive Session that the Board authorized to be reflected in the minutes appear below.*

**ACCOMMODATIONS-01** Motion by Watt to change Rule 7.11, so that it reads as follows:

**(1) REQUESTS FOR ACCOMMODATIONS.** Requests for accommodation should be made either on the Team Registration Form or separately by writing to the Accommodations Committee. Requests should be made by the **January 15** preceding the AMTA-sanctioned tournaments for which the accommodation is sought. Late



requests will only be considered on a case-by-case basis and when practicable by both AMTA and AMTA's tournament host(s). 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. Any AMTA representatives presented with such a request shall be permitted to grant it. If denied by the AMTA representatives, 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.

(2) The student who requires accommodation or any coach or official contact person of the student's school may make the request for accommodation. Requests should identify the basis for the accommodation, the specific accommodation sought, verification of the physical or medical impairment necessitating the accommodation, and any other information the requesting individual deems appropriate for consideration of the request for accommodation. Such verification need not include medical documentation.

*Rationale: As currently written, this rule has inconsistent time deadlines. This motion is intended to simplify the deadlines, and provide an appeal process for in-tournament decisions to ensure that the organization is not unnecessarily exposed to legal liability based on the denial of an accommodation. The January 15 deadline was selected to be consistent with the final late registration deadline for teams. Furthermore, the simplification of the analysis of the late requests allows the Accommodations Committee to consider requests on a case-by-case basis to analyze whether the accommodation is practical, and the impact of the request on the host, such that the specific basis for the late requests are unnecessarily complicated and not necessary.*

#### **ADVANCED WITH A POSITIVE RECOMMENDATION**

**Motion withdrawn by Watt.**

**ACCOMMODATIONS-02 Motion by Michalak (as revised by Committee) to amend Rule 7.11** as follows:

#### **Rule 7.11 Reasonable Accommodations**

Our mission at AMTA is to encourage and foster maximum student engagement in mock trial and maximize the educational value of the activity for participating students. To that end, AMTA has promulgated a series of competition rules designed to foster fair and educational competition. An accommodation freeing a school or student from compliance with a competition rule is a Rules Variance. There are circumstances that warrant a reasonable accommodation granting a school or student a variance including, by way of example, religious restrictions or disability. AMTA strives to create an educational environment that is welcoming to all students regardless of their



circumstances and AMTA recognizes that the diversity of our students enriches the activity and seeks to include students in all aspects of mock trial whenever reasonably possible to do so.

- 1) Request for Accommodations.** To be eligible for review by the committee, an application must contain: (1) The name of the school or student, the student's school, and the name of the competition at which the accommodation is sought; (2) Contact information for the school representative or student. If the accommodation is submitted by a student and the student is unable or unwilling to communicate directly with the committee, the student may authorize in writing a personal representative (such as a parent, teammate, or coach) to communicate with the committee regarding the accommodation. (3) The application should include at least two valid means of communication (for example, a telephone number and an email address). The more means of communication provided to the committee, the more fluid the process can be. (4) The circumstances requiring the accommodation (such information need not include medical documentation); and (5) The requested accommodation. Applications are due to the committee on **January 15** preceding the spring qualifier season. Requests should be submitted with the Team Registration Form or by writing the Accommodations Committee directly. **Host accommodations should go to the hosting institution as AMTA does not have authority to change premises rules.**
- 2) Late Requests.** All applications received **after January 15** will only be granted if the student needing the accommodation joined the team after December 26; or a change in the student's physical condition, health, or treatment status occurred after **January 1**, and that change necessitates the accommodation; or failure to grant an accommodation poses a risk to the student's health. Late requests necessitated by the addition of a student or a change in health status must be made within seven days of the student joining the team or learning about the change in his or her physical condition, health, or treatment status. 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. Any AMTA Representatives presented with such a request shall be permitted to grant it only if they unanimously conclude that it meets one of the three exceptions identified herein for late requests. 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.**

- 3) **Standard.** Requests for accommodation should be allowed whenever feasible in accordance with the terms of this and any other applicable AMTA rules and policies.
- 4) **Criteria.** In weighing the reasonableness of a request for a Rules Variance, the committee may consider any and all of the following: The severity of the need of the student requesting the variance and whether the student would be unable to compete without the variance; the purpose of the rule from which variance is sought and the relative importance of enforcing that rule to maintain a fair competition; any input from the Tabulation Director on the impact a variance from the rule may have on the administration of the competition; whether any less intrusive alternative to the requested variance exists; other concerns articulated by the student, their authorized program, coach, or parents, the designated AMTA Representatives for the tournament, or the committee that ought in fairness be considered, as justice so requires.
- 5) **Responding to Requests.** An application received prior to January 15 will receive a response from the committee within 10 calendar days of submission. The committee's responses are limited to granted; denied with stated reasons, granted with alterations for stated reasons, take any other actions consistent with AMTA rules, or request for more information or additional time to consider the application. The committee's response will include concrete deadlines for providing additional information and the penalties for failure to do so.
- 6) **Appeals.** Decisions of the Accommodation Committee may be appealed to the AMTA Executive Committee.
- 7) **Multiple Requests.** Students and teams seeking an accommodation must submit separate requests for each tournament for which the student seeks an accommodation. Said request may be submitted in the same fashion and to the same persons as described above and should be submitted along with the submission of bid reservation forms for ORCS and for the National Championship Tournament. However, due to variations in schedules, formats, and facilities, AMTA reserves the right to offer different accommodations to the same student/team in other/later AMTA-sanctioned competitions than that/those offered at the first tournament at which the student is accommodated AMTA reserves the right to share information received in conjunction with an earlier request for an accommodation with AMTA Representatives officiating subsequent AMTA-sanctioned competitions in which that student/team participate, the host of subsequent AMTA-sanctioned tournaments and officials responsible for the courthouse or university campus on which the competition takes place.
- 8) **Costs Associated with Accommodations.** AMTA is not responsible for providing, or the costs of providing, any accommodations granted under these rules. For example, if a visually impaired student is granted the use of assistive technology, AMTA will neither provide nor pay the costs of such technology.

- 9) Consent.** By submitting a request for accommodation, the individual requesting same consents to the sharing with officials from the courthouse or other venue, the tournament host, members of the Accommodations Committee, members of the AMTA Board of Directors and other teams and coaches participating in the AMTA-sanctioned competition the information necessary to identify the disability, impairment or religious belief that prompted the request for an accommodation. The requestor may, but need not, offer a proposed accommodation. Those persons provided with the request for an accommodation will avoid revealing information unnecessary to providing the accommodation and will conduct such discussions with respect for the requesting individual's privacy and dignity. Neither AMTA nor anyone acting at its behalf, however, shall be held responsible or liable for any access to any such information by anyone for any reason at any time.
- 10) Notice.** The Accommodations Committee will inform the host, the AMTA Representatives, the courthouse or university official responsible for the use of the facilities and any other person the Committee determines is a necessary recipient of any approved accommodation. Teams whose student has been granted an accommodation must notify opposing teams, and may notify judges, of the accommodation before the trials in which the accommodated student is competing, unless the accommodation involves a confidential medical condition, in which case the AMTA Representatives at the corresponding tournament(s) will coordinate with the student (and his or her team, as appropriate) who received the accommodation on what, if any, information needs to be shared with opposing teams and/or judges regarding the accommodation to ensure no disruption in the tournament(s).

*Rationale: These amendments are intended to provide a later date by which timely requests can occur as well as provide specific criteria of what should be included in a request, what the committee will consider, and how the process will work.*

### **ADVANCED WITH A POSITIVE RECOMMENDATION**

**Motion by Woodward to amend** to strike language of proposed Section 2 as follows:

- 2) Late Requests.** ~~All applications received after January 15 will only be granted if the student needing the accommodation joined the team after December 26; or a change in the student's physical condition, health, or treatment status occurred after January 1, and that change necessitates the accommodation; or failure to grant an accommodation poses a risk to the student's health. Late requests necessitated by the addition of a student or a change in health status must be made within seven days of the student joining the team or learning about the change in his or her physical condition, health, or treatment status.~~ 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. Any AMTA Representatives presented with such a request shall be permitted to grant it only if they unanimously conclude that it meets one of the three exceptions identified herein for late requests. 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.

Seconded. **Motion by Woodward to amend passes.**

**Motion by Olson to refer** to the Accommodations Committee for further review.  
**Motion to refer fails for lack of a second.**

**Motion by West to amend** to strike language of proposed Section 2 as follows:

**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. ~~Any AMTA Representatives presented with such a request shall be permitted to grant it only if they unanimously conclude that it meets one of the three exceptions identified herein for late requests.~~ 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.

Seconded. **Motion by West to amend passes.**

**Motion passes as amended.**

**CRC-01 Motion by Thomason to Amend Rule 8.9** to include a statement that "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 are not appealable and will not be made public."

*Rationale: I think it is important for the CRC to tell teams when it finds that it found there was a material invention, even if that material invention was not egregious.*

## ADVANCED WITH A POSITIVE RECOMMENDATION

**Motion passes.**

**ETHICS-01 Motion by the Ethics Committee (Langford)** as follows:

The Ethics committee moves 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.

*Rationale: This would allow for more immediate awareness of ethical issues along the circuit and more prompt remedial action.*

## ADVANCED WITH A POSITIVE RECOMMENDATION

**Motion by Warihay to refer** to the Ethics Committee for a detailed proposal for implementation. Seconded. **Motion to refer passes.**

**EC-02 Motion by Thomason to Amend Rule 10.3.5(2)** to include the bolded language:

(2) CHARGE. The CRC is charged with responding to in-season questions and problems and with issuing timely rule interpretations during the season. All interpretations and rulings made by the CRC are effective only until the next annual Board meeting **unless the CRC explicitly states that it is providing an interpretation, guidance, or ruling that will remain in effect until it is withdrawn.** The CRC will also receive and adjudicate Act of AMTA bid requests. The CRC shall develop guidelines for in-season rule interpretations and the co-chairs shall report those guidelines to the Board of Directors at the mid-year meeting. If the size of a tournament's field is significantly altered due to adverse weather or other unusual circumstances, the Competition Response Committee may adjust the bids awarded to a region or a supplemental region.

*Rationale: The CRC drafted a guidance memo last year that I think, with a few tweaks, could be a helpful living document for the community. This revision would allow for such a document to exist without having to be "re-issued" every year.*

## ADVANCED WITH A POSITIVE RECOMMENDATION

**Motion by Eslick to amend** to include requirement that CRC provide an annual report. **Motion to amend fails.**

**Motion passes.**

**EC-05 Motion by Warihay (on behalf of Scher) to create Rule 10.1.5 Communication with External Media**

(a) GENERAL RULE: Directors and Candidate Directors should notify the President or the President's designee whenever they are asked to speak to the media on behalf of

AMTA, and should only respond to said request with specific permission from the President or the President's designee.

(b) SOCIAL MEDIA AND WEBSITES: Directors and Candidate Directors shall refrain from posting or commenting in a representative capacity on social media platforms and websites without express permission from the President or the President's designee.

(c) STATEMENTS ON BEHALF OF AMTA: In line with Bylaw 4.06, when authorized to speak externally on behalf of AMTA, Directors and Candidate Directors are required to act as part of a unified team in implementing decisions adopted by the Board. Speaking about activities conducted on behalf of the Board are inherently representative speech.

(d) NON-REPRESENTATIVE SPEECH: Nothing in this policy is intended to restrict the freedom of Directors and Candidate Directors from discussing their personal involvement in mock trial. When doing so, individuals should make every reasonable effort to indicate that they are not speaking in a representative capacity on behalf of AMTA.

*Rationale: With various platforms available to discuss AMTA-related matters, it is important that AMTA communicate accurate, effective and consistent messaging to our constituents and interested parties; this need was made even more apparent during the COVID-19 crisis when a small Taskforce was working to align AMTA's response for students and coaches in a rapidly changing environment. It is also critical that external parties know when a statement is in a representative capacity and when it is not. This policy builds on Rule 10.1.3 and Bylaw 4.06 requiring Directors to present a unified front; this proposed rule offers more granular guidance and operations. Additionally, policies of this nature are commonplace in entities with many Directors.*

### **ADVANCED WITH A POSITIVE RECOMMENDATION**

During Executive Session held on Sunday, **the Board voted to approve EC-05.**

**RULES-01 Motion by Thomason to create a rule regarding expert disclosures** consistent with Federal Rule of Civil Procedure 26(a)(2)(B) that expert witnesses must serve a disclosure of "a complete statement of all opinions the witness will express and the basis and reasons for them," the "facts or data considered by the witness in forming their opinions," and "the witness's qualifications" and allow students to object to undisclosed expert opinion testimony.

*Rationale: In real trial practice, experts (unlike fact witnesses) are bound to the scope of their expert report. For AMTA, adopting this rule would also go a long way toward eliminating invention-of-fact issues with expert witnesses. I think this would improve on our current rules, in which disclosure of expert opinions is addressed through impeachment. That being said, I do not think we want 30-page expert reports in the case materials. I believe that our case committees, working with the Rules Committee, are in the best position to develop "case law" that would be helpful in describing the level of disclosure that is required to adapt this rule to the limitations of mock trial, which is why I have not tried to do so here.*



## ADVANCED WITH NO RECOMMENDATION

### **Motion passes.**

**RULES-02 Motion by Thomason to Amend Rule 1.2(i)(c)** to include the following new bolded text in defining a “demonstrative aid.”

“Any tangible physical object or collection of objects that any attorney and/or witness intends to show the jury during trial, regardless of whether the object is referenced in, or contemplated by, the case packet. **This includes any object that is brought into the courtroom to be used as a “prop,” even if the attorney or witness do not physically handle the object.**

*Rationale: This clarifies the rule as written.*

## ADVANCED WITH A POSITIVE RECOMMENDATION

**Motion by Ben-Merre to amend** to replace the word “do” with “does” within the new bolded text. **Motion to amend passes with unanimous consent.**

### **Motion passes as amended.**

**RULES-03 Motion by Thomason to Amend Rule 7.14** to include the bolded text:

Rule 7.14 Characterizations. Witnesses may develop the persona of their character. Any dress, demeanor, and appearance consistent with Rules 1.4 through 1.10 may be used. **A witness may not introduce facts to the case through characterization that would constitute an Improper Invention under Rule 8.9.**

*Rationale: This is a clarification of an issue often discussed in Special Instructions that a witness cannot get around the invention-of-fact rule through non-verbal characterizations.*

## ADVANCED WITH A POSITIVE RECOMMENDATION

**Motion by Woodward to amend** to replace “characterization” in the new bolded text with “dress, demeanor, or appearance.” Seconded.

**Motion by Gelfand to amend the amendment** to add “non-verbal conduct” to “dress, demeanor, or appearance.” Seconded. **Motion to amend the amendment amend fails.**

**Motion by Bernstein to refer** Rules-03 to the Rules Committee. Seconded. **Motion to refer passes.**

**RULES-04 Motion by Schuett (as revised by Committee) to amend Rule 4.26** as follows:

*Current Rule:*

Rule 4.26 Open and public trials. All trials shall be open and public. No one, whether family, friend, press, or opponent, shall ever be excluded from any trial, except that the court may clear the court room during its deliberations at the end of a trial. Witnesses shall not be sequestered except pursuant to the Midlands Rules of Evidence. In circumstances where there are insufficient seats to accommodate all spectators, the AMTA Representatives shall have the authority to establish reasonable rules for determining who may remain. The Representatives should give special weight to teammates, coaches, and family members of the competing teams, but need not reserve all available seats for such persons.

*Proposed Rule:*

Rule 4.26 Open and public trials.

(A) Except as prohibited under 4.26(B), all trials shall be open and public. No one, whether family, friend, press, or opponent, shall ever be excluded from any trial, except that the court may clear the court room during its deliberations at the end of a trial. Witnesses shall not be sequestered except pursuant to the Midlands Rules of Evidence. In circumstances where there are insufficient seats to accommodate all spectators, the AMTA Representatives shall have the authority to establish reasonable rules for determining who may remain. The Representatives should give special weight to teammates, coaches, and family members of the competing teams, but need not reserve all available seats for such persons.

(B) Exceptions.

During the first two rounds of any post-regional tournament, the only persons permitted to enter a courtroom to observe the round are 1) members of the judging panel; 2) official courthouse staff (deputies, etc.); 3) individuals affiliated with the teams competing in that round; or 4) AMTA Representatives or their official designees. Tournament hosts and their volunteers are prohibited from observing rounds unless they are affiliated with one of the teams competing in that room.

*Original Rationale: This motion seeks to strike a fair balance between AMTA's educational goals and preserving its competitive integrity. The seeded ORCS pairing system implemented in 2019-2020 was designed to remove inequity by requiring all ORCS teams to face a competitively similar path to qualify to NCT. Though the data was limited by the COVID-19 pandemic, the system appears to have functioned as designed and removed competitive imbalance in qualifying for NCT. At the same time, the new seeded pairing system exposed that it is very prone to being exploited by scouting in rounds one and two, and thereby creating a different type of ORCS inequity in favor of those schools with the resources to effectively scout the rounds of other schools.*

*Unlike the pairing systems for Regional Tournaments and NCT, at ORCS predicting your third and fourth round opponents during rounds one and two is substantially easier. The third and fourth round are also the most like-for-like*



*competitive rounds of the tournament (same bracket pairings in round three and AvB/CvD in round four). Meaning that the impact of any competitive advantage gained by scouting in rounds one and two is substantially increased.*

*Historically, AMTA has been hesitant to prohibit scouting because it was seen as a hinderance on the educational mission of allowing as many people as possible to view rounds and to learn about trial advocacy. That is why this rule only seeks to prohibit scouting in a very narrow set of trials. No limits are being proposed on scouting at Regional Tournaments, NCT, or rounds three and four of ORCS—which have the most competitive rounds of the seeding system. Other national trial advocacy organizations prohibit scouting in total or have a limited early round prohibition as suggested herein.*

*I submit that this rule strikes the right balance between education and competition. Moreover, it eliminates a new imbalance that we created in favor of programs with larger enrollment and/or greater resources. Adopting this modification will enable the ORCS pairing system to be truly equitable for all teams trying to qualify for NCT.*

#### **ADVANCED WITH NO RECOMMENDATION**

Seconded. **Motion by Eslick to amend** to include one-year sunset provision.  
Seconded.

**Motion by Warihay to amend the amendment** to provide that the one-year sunset provision shall begin at the onset of the next in-person (*i.e.*, not online) AMTA season.  
Seconded. **Motion to amend the amendment passes.**

**Motion to amend passes.**

**Motion passes as amended.**

**TAB-01 Motion by Woodward to amend Rule 6.9(2)**, Criteria for Bids to the National Championship, as follows:

- (a) Ballots won at the opening round championship;
- (b) Whether the school already has a team in the national championship tournament, with those schools without a team in the national championship tournament taking precedence;
- (c) Combined strength at the opening round championship tournament;
- (d) For a school's first team at the national championship tournament, by the school's best number of ballots won at a regional tournament; for a school's second team at the national championship tournament, by the school's second best number of ballots won at a regional tournament;**
- (e) For a school's first team at the national championship tournament, by the school's best combined strength at a regional tournament; for a school's second team at the national championship tournament, by the school's second best combined strength at a regional tournament;**

- (d) The number of teams in the team's opening round championship tournament, with the larger number taking precedence;
- (ef) **Bonus bid Team power** ranking, with the better ranking taking precedence.

*Rationale:*

*If open bids are awarded to championship, we should add regional ballots and CS as additional tiebreakers beyond ORCS ballots and CS, instead of going straight from ORCS results to TPR. Because many teams are tied at TPR, additional tiebreakers would be useful. I am deleting the number of teams at ORCS as a tiebreaker, as our current setup demands that all ORCS have the same number of teams (24).*

### ADVANCED WITH A POSITIVE RECOMMENDATION

**Motion by Woodward to amend** to replace Paragraph (e) with the following:

**(e) For a school's first team at the national championship tournament, by the combined strength of the team with the school's best overall finish at a regional tournament; for a school's second team at the national championship tournament, by the combined strength of the team with the school's second best overall finish at a regional tournament.**

Seconded. **Motion to amend passes.**

**Motion passes as amended.**

## **XI. Unfinished/New Business**

**NB-01 Motion by Watt, co-sponsored by all Directors to amend the Bylaws:**

**(1) Article 1B of the Bylaws as follows:**

*Executive Committee* – a committee consisting of the President, President-Elect, Past President, Secretary, Treasurer, Tournament Administration Chair, Tabulation Chair, Rules Committee Chair, Competition Response Committee Chair, Development Chair, ~~and~~ Academics Chair, **and Diversity and Inclusion Chair**; the Executive Administrative Assistant is also a part of the Executive Committee as an ex officio, non-voting member

**(2) Section 5.01 of the Bylaws as follows:**

The Board of Directors shall elect a President and President-Elect who shall serve two-year, non–successive terms. The Past President will serve as a member of the Executive Committee. The President will appoint a Secretary, a Treasurer, a Tournament Administration Chair, an AMTA Tabulation Chair, a Rules Committee Chair, a Competition Response Committee Chair, a Development Chair, ~~and~~ an Academics Chair, **and a Diversity and Inclusion Chair.**

(3) **Rule 10.3.3 of the Rulebook as follows:**

(1) **COMPOSITION.** The Executive Committee shall consist of the President, the Past-President/the President-Elect, the Secretary, the Treasurer, the Tournament Administration Committee Chair, the AMTA Tabulation Director, the Rules Committee Chair, the Competition Response Committee Chair, a Development Officer, ~~and~~ the Academics Committee Chair, **and a Diversity and Inclusion Chair.**

*Rationale: AMTA has a policy of embracing diversity as stated in Rule 1.3.1. That commitment extends to everything our Board and organization does. And that commitment must extend to the important work of our Executive Committee, which is charged with, among other things, compiling the Board Meeting agenda, working with the Treasurer to establish the budget, establishing relationships with external stakeholders, and serving as the nominating committee for Candidate Directors and Directors. As Brandon said earlier today, the Committee's charge is to determine the ways in which AMTA can even better ensure that our commitment to diversity and inclusion touches every aspect of our organization and events and to foster an even more inclusive environment for our students and member schools. By virtue of the committee's work, the Chair will have an important perspective about our organization that will provide valuable insight as the Executive Committee carries out its work on behalf of our organization. For those reasons, I believe that the Chair of the Diversity & Inclusion Committee should also sit on the Executive Committee.*

Seconded. **Motion passes unanimously.**

**NB-02 Motion by Eslick to amend Rule 2.12 as follows:**

(2) **EDUCATIONAL PURPOSES DEFINED.** "Educational purposes" include, but are not limited to, use for exhibition rounds, course instruction, auditions, or academic research. "Educational purposes" shall not include any purpose for which a fee is charged, including but not limited to fee-based instruction (outside normal institutional course fees) or **fee-based** summer camps.

(3) **LICENSE REQUIRED FOR OTHER PURPOSES.** A school wishing to use an old AMTA case for **any reason not identified in Rule 2.12(1) or (2) fee-based instruction, summer camps, etc.** may purchase a license to do so. AMTA's website will include a fee schedule showing current pricing. Absent an agreement to the contrary, each license shall last for one year from the date of purchase.

*Rationale: The current rule (subpart (3) when read with subpart (2)) is ambiguous with respect to whether free summer camps (regardless of whether they are sponsored by and for students of a member in good standing) are exempt from the fee requirement when free summer camps are provided by a member in good standing to non-members (such as high school students). This makes that exemption clear. We should also not use words like "etc." in our rules as that makes them inherently ambiguous.*

Seconded. **Motion passes.**

**NB-03 Motion by Walsh (on behalf of Alan Medvin, Anna Eldridge, and Ben Garmoe) to limit hostile witness portrayals:**

**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 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.*

**Motion by Eslick to refer** to the Rules Committee to prepare a report for the mid-year meeting. Seconded. **Motion to refer passes.**

**NB-04 Motion by Gelfand to amend Rule 10.3.2(2)** to extend the public release deadline of the 2021 civil case problem to September 8, 2020. Seconded.

**Motion by Warihay to amend the amendment** to empower the Executive Committee to work with the Civil Case Committee to publicly release the 2021 civil case problem by no later than August 15, 2020, if feasible. Seconded. **Motion to amend fails.**

**Motion by Woodward to amend the amendment** to change the public release deadline to August 24, 2020. Seconded. **Motion to amend fails.**

**Motion passes.**

**NB-05 Motion by Bernstein to conduct all 2021 AMTA Regional and Opening Round Championship Series (“ORCS”) tournaments online.** Seconded.

**Motion by Warihay to refer** to TAC and Strategic Planning Committee and report back in 60 days with a recommendation. Seconded.

**Motion by Eslick to enter Executive Session.** Seconded. **Motion withdrawn by Eslick.**

**Motion by Eslick to move discussion of motions by Bernstein and Warihay to Executive Session.** Seconded. **Motion passes.**

*On Sunday morning, the Board entered Executive Session and did not exit until adjournment. Votes taken during Executive Session that the Board authorized to be reflected in the minutes appear below.*

**Motion to refer withdrawn by Warihay.**

**Motion by Warihay to amend** to provide the following timeline:

The Board directs Strategic Planning - Online Competition Subcommittee to investigate and research feasibility, structure, and rules issues for an online 2021 AMTA competition season, and directs same to report back to the Board on or before August

16, 2020. The Board agrees that it will schedule a meeting, at the discretion of the President, during the week of August 17-23, 2020, to review the report of the Strategic Planning Committee and further discuss whether the 2021 AMTA competition season should be moved to online. While AMTA remains hopeful for in-person events, either way and at a minimum, AMTA commits today that it will endeavor to provide an online option for teams affected by the COVID-19 pandemic to ensure maximum participation in the 2021 season.

*Rationale: This proposed timeline allows the Board the benefit of reviewing the results of the "One Last Time" tournament on August 8-9, 2020. This proposed timeline alleviates concerns about the prior motion to amend insofar as it moves up the timeline for AMTA to make a decision from 60 days to closer to the beginning of the semester. This proposed timeline also allows the Civil Case Committee time to incorporate any changes to rules or structure approved by the Board before the current case release deadline of September 8, 2020. Finally, this amendment provides certainty to all teams that no matter what, they will have a competition option in 2021, as AMTA will commit to providing an online option in some form for those students.*

Seconded.

**Motion by Eslick to amend the amendment** as follows:

The Board directs Strategic Planning - Online Competition Subcommittee to investigate and research feasibility, structure, and rules issues for an online 2021 AMTA competition season, and directs same to report back to the Board on or before ~~August 16, 2020~~ **July 19, 2020**. The Board agrees that it will schedule a meeting, at the discretion of the President, during the week of ~~August 17-23, 2020~~ **July 19, 2020**, to review the report of the Strategic Planning Committee and further discuss whether the 2021 AMTA competition season should be moved to online. While AMTA remains hopeful for in-person events, either way and at a minimum, AMTA commits today that it will endeavor to provide an online option for teams affected by the COVID-19 pandemic to ensure maximum participation in the 2021 season.

Seconded. **Motion to amend the amendment fails.**

**Motion by West to amend** as follows:

“... to conduct all 2021 AMTA Regional ~~and Opening Round Championship Series~~ tournaments online **and to direct the TAC, in conjunction with the Strategic Planning - Online Competition Subcommittee, to issue a report, within 60 days, which will: (1) outline the date by which TAC believes a decision must be made concerning ORCS; (2) set out the options for holding ORCS in person, online, or under a hybrid system; and (3) make recommendations concerning the format for the 2021 ORCS. In addition, AMTA shall issue a statement announcing these measures and further noting that, while it has yet to decide on ORCS, it expects that they will be held virtually. Further, the statement shall state that, no matter the decision on the ORCS format,**



any team that needs or wants to compete remotely will be given the ability to do so.”

**Motion to amend by West fails.**

**Motion to amend by Warihay fails.**

The Chair called for a roll call vote on motion by Bernstein. **Motion passes.**

**NB-06 Motion by Warihay to adopt 2020-2021 proposed Budget.** Seconded. **Motion passes.**

**NB-07 Motion by Bernstein to enter Committee of the Whole.** Seconded. **Motion passes.**

The Board entered Committee of the Whole.

**NB-08 Motion by Warihay to amend Rule 3.9 to provide that, for online tournaments only, a team shall consist of no fewer than four members and no more than six members.** Seconded.

**Motion by Ben-Merre to amend the amendment** to provide that, for online tournaments only, a team shall consist of no less than four members and no more than eight members. Seconded. **Motion to amend withdrawn by Ben-Merre.**

**Motion withdrawn by Warihay.**

**NB-09 Motion by Warihay to exit Committee of the Whole.** Seconded. **Motion passes.**

The Board exited Committee of the Whole.

**NB-10 Motion by Gelfand (on behalf of Holstad) to reconsider CRC-01.** Seconded. **Motion passes.**

**Motion by Gelfand (on behalf of Holstad) to amend CRC-01** to add the following language:

**Motion to Amend Rule 8.9** to include a statement that “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 are not appealable and will not be made public.” “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.**”

Seconded. **Motion passes.**

**Motion by Gelfand (on behalf of Holstad) to amend Rule 8.9** to include a statement that “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.**”

Seconded. **Motion passes.**

**NB-11 Motion by Detsky to host the Annual Board Meeting in Denver, CO on July 10-11, 2021.** Seconded. **Motion passes.**

**Toby Heytens named recipient of Neal Smith Award (awarded by Leapheart).** **Commendation by applause.**

**NB-12 Motion by Leapheart to amend the Neal Smith Award proclamation as follows:**

- (1) Amend the current final paragraph to the following:

Regional qualifiers culled their 678 teams to 192 teams from which 48 teams would have advanced to the April National Championship that was to be hosted in Chicago by Loyola University. During that 2019-2020 academic year 763 teams, consisting of approximately 6,500 undergrads registered with AMTA to obtain a copy of the case packet; of that group, 678 qualifier teams comprised of about 5,800 undergrads competed at regional tournaments; the regional tournaments consisted of 1,380 regional trials, roughly 3,800 performance hours and about 32,250 student-concentration hours of trial preparation.

- (2) Add the following language:

C. This proclamation is hereby adopted by the 2020 Board of Directors of the American Mock Trial Association to express our deepest gratitude for your contributions in helping to launch this organization, as well as your subsequent support for law-related education throughout the years.

Seconded. **Motion passes.**

**NB-13 Motion by Walsh to commend Melissa Pavely for her hard work, dedication, and service to AMTA in her capacity as Director and Secretary to the organization.** Seconded. **Motion passes unanimously.**



**NB-14** Motion by Woodward to remove secrecy of motions and votes in Executive Session, with two exceptions Seconded. **Motion passes.**

**NB-15** Motion by Bernstein to commend William Warihay for his service as AMTA's President. Seconded. **Motion passes unanimously.**

## **XII. Adjournment**

**Motion to adjourn. Motion passes.**

## **Appendix A: Consent Calendar**

### **Motion by Harper to adopt 2020-21 AMTA Committee Assignments:**

#### **Academics Committee**

Justin Bernstein (Chair)  
Delois Leapheart  
David Ben-Merre  
Adria Kimbrough  
Allen Linken  
Deone Merkel  
Mark Miller  
Zac Mundy  
Tom Parker

#### **Accommodations Committee**

Diane Michalak (Chair)  
David Cross (Counsel)  
Laura Braunsberg  
Josh Leckrone  
Analysis Committee  
Sam Jahangir (Chair)  
Andy Hogan  
Sarah Sawtelle  
Ben Garmoe  
Zac Mundy

#### **Audit Committee**

Tom Parker (Chair)  
DeLois Leapheart  
Maggy Randels Schuette  
Budget Committee  
Matthew Eslick (Treasurer/Chair)  
Brandon Harper (President)  
Michael D'Ippolito (Secretary)  
Laura Braunsburg  
Jacinth Sohi

#### **Case and Evidentiary**

Review case proposals and select the case for use in competition, offer clarifications as necessary, respond to queries regarding the case and make revisions as necessary.

#### **Civil Case Committee**

Michael Gelfand (Chair)  
Abbe Stensland (Deputy Chair)  
Michael D'Ippolito  
Ali Foreman

Andy Hogan  
Sam Jahangir  
Mackenzi Siebert  
Kyle West  
Elise Wilson

**Criminal Case Committee**

Neal Schuett (Chair)  
Samantha Feak (Deputy Chair)  
Elliott Averett  
David Ben-Merre  
Parmida Enkeshafi  
Graham Henry  
Toby Heytens  
Megan Keenan  
Elizabeth Smiley

**NCT Civil Case Committee**

Dan Haughey (Chair)  
Amanda Mundell  
Kyle Thomason  
Michael Polovich  
Ravi Narayan  
James Boyce

**NCT Topic Approval Committee**

David Nelmark (Chair)  
David Cross  
Matthew Eslick  
Johnathan Woodward  
Jeremy Zarzycki  
Sara Zeigler

**Communications Committee**

Thom Scher (Chair; Social Media Coordinator)  
Melissa Watt (Alumni Relations Coordinator)  
Jacinth Sohi  
Johnathan Woodward  
Justin Bernstein  
William Warihay

**Competition Response Committee**

Note that individuals serve on the Committee by virtue office and membership changes as the person holding the office changes.

Kyle Thomason (Chair)  
Johnathan Woodward (Tabulation Director)

Michael Walsh (Rules Committee Chair)  
Michael Gelfand (Civil Case Committee Chair)  
Toby Heytens (Ombudsperson)  
Melissa Watt (Tournament Administration Committee Chair)  
Brandon Harper (President)

### **Development Committee**

Thom Scher (Chair)  
Jacinth Sohi  
Justin Bernstein  
Melissa Watt  
Matthew Eslick (Treasurer)  
Brian Olson

### **Disciplinary Committee**

William Warihay (Past President, Chair)  
Tom Parker (Appointment by President)  
Toby Heytens (Member At-Large)

### **Diversity & Inclusion Committee**

DeLois Leapheart (Chair)  
Angela Minor (Deputy Chair)  
Melissa Watt (Deputy Chair)  
Sara Zeigler  
Glen Halva-Neubauer  
Barry Langford  
Christian Acevedo  
Jamar Walker  
Laura Braunsberg  
Jacinth Sohi

### **Ethics & Professionalism Committee**

Devon Holstad (Chair)  
Barry Langford (Deputy Chair)  
Laura Braunsberg  
Kristen DelForge  
Sam Jahangir

### **Executive Committee (also serves as Nominating Committee)**

Brandon Harper (President)  
William Warihay (Past President)  
DeLois Leapheart (Diversity & Inclusion Committee Chair)  
Michael D'Ippolito (Secretary)  
Matthew Eslick (Treasurer)  
Thom Scher (Development Committee Chair)  
Melissa Watt (Tournament Administration Committee Chair)  
Kyle Thomason (Competition Response Committee Chair)

Justin Bernstein (Academics Committee Chair)  
Michael Walsh (Rules & Intellectual Property Committee Chair)  
Johnathan Woodward (Tabulation Director)

**Human Resources Committee**

Michael D'Ippolito (Secretary)  
Glen Halva-Neubauer (Appointment by President)  
Angela Minor (Member at large)

**New School Recruitment and Mentoring Committee**

Brian Olson (Chair)  
James Boyce  
Adam Detsky  
Samantha Feak  
Ben Garmoe  
Michael Gelfand  
Paul Hubbell  
Adria Kimbrough  
Angela Minor  
Zac Mundy  
Maggy Randels Schuette  
Nat Warner  
Kyle West

**One Last Time Senior Tournament Committee**

Elizabeth Smiley (Chair)  
David Ben-Merre  
Samantha Feak  
Graham Henry  
Sam Jahangir  
Sue Johnson  
Barry Langford  
Delois Leapheart  
Angela Minor  
Brian Olson

**Rules and Intellectual Property Committee**

Michael Walsh (Chair)  
Dan Haughey  
Toby Heytens  
Sue Johnson  
Andy McNeil  
Tom Parker  
Neal Schuett  
Nat Warner

**Student Advisory Board**

Samantha Feak (Co-Chair)

Jacinth Sohi (Co-Chair)

Students selected by August 15

**Strategic Planning Committee**

William Warihay (Chair)

**AMTA Foundation Committee**

Samantha Feak (Chair)

Laura Braunsberg

Matthew Eslick

Adam Detsky

Steven Haspel

Toby Heytens

Barry Langford

**Online Competition Logistics Committee**

Sue Johnson (Chair)

Justin Bernstein

David Ben-Merre

Graham Henry

Andy Hogan

Devon Holstad

Sam Jahangir

Maggy Randels Schuette

Abbe Stensland

Kyle Thomason

Michael Walsh

Brian Olson

Elizabeth Smiley

**AMTA Structural Planning Committee**

Barry Langford (Chair)

Glen Halva-Neubauer

Michael D'Ippolito

Dan Haughey

Diane Michalak

Toby Heytens

DeLois Leapheart

Neal Schuett

Kyle Thomason

Melissa Watt

### **Tabulation Advisory Committee**

Johnathan Woodward (Chair; Tabulation Director)

Diane Michalak (Deputy Tab Director)

Justin Bernstein

Graham Henry

Devon Holstad

Zac Mundy

Neal Schuett

Kyle West

### **Tournament Administration Committee**

Melissa Watt (Chair)

#### **Team and Feeder Subcommittee**

Adam Detsky (Chair)

Ryne Cannon

Samantha Feak

Devon Holstad

Ryan Nolte

Thom Scher

Brandi Snow

Johnathan Woodward

Andy Hogan

#### **Site Selection and Host Communication Subcommittee**

Josh Leckrone (Chair)

Elizabeth Smiley

Emily Shaw

Michael Polovich

Kyle West

#### **AMTA Representative Assignment Subcommittee**

Elizabeth Smiley (Chair)

Matthew Eslick (Treasurer)

Laura Braunsberg

Glen Halva-Neubauer

Josh Leckrone

Diane Michalak

Judge Recruitment Subcommittee

Andy Hogan (Chair)

Adria Kimbrough

Margarita Koblasz

Michael Gelfand

Steven Haspel

Graham Henry

Paul Hubbell

Sam Jahangir

Diane Michalak  
Ryan Seelau  
Kyle West

Counsel: David Cross, Morrison & Foerster, LLP  
Insurance Coordinator: Adam Detsky  
Ombudsperson: Toby Heytens  
Parliamentarian Johnathan Woodward  
Trophy Coordinator: Samantha Feak  
Website Manager: William Warihay

**CRC-03 Motion by Warihay (on behalf of Scher) to add comment to Rule 8.9**

Add comment to Rule 8.9 to read “AMTA has issued supplemental guidance to this rule. The “AMTA Invention of Fact Guidance Memorandum” is available through the AMTA website.” along with including a direct link to the document on the AMTA website in the Rulebook,.

*Rationale: As a few of these motions indicate, it is important to acknowledge and highlight the existence of the memo as outside additional guidance beyond the language in the Rulebook itself, especially for schools less “in tune” to AMTA developments.*

**ADVANCED WITH A POSITIVE RECOMMENDATION**

**EC-01 Motion by Eslick** to amend section 3.02 of the Bylaws to delete “in Iowa” from the first sentence.

**ADVANCED WITH A POSITIVE RECOMMENDATION**

**EC-03 Motion by Warihay (on behalf of Scher) (as revised by Committee) that Rule 10.2.4,** "Updating Bylaws, Rules, and Policies," be amended by adding the following sentence:

"An officer or committee chair who oversees a document containing bylaws, rules, or policies has ongoing authority to make minor corrections and edits of a typographical, grammatical, or formatting nature so long as the correction or edit does not alter the substance of the bylaw, rule, or policy."

**ADVANCED WITH A POSITIVE RECOMMENDATION**



**EC-04 Motion by Warihay (on behalf of Scher) to revise Rule 4.12 (1) and (2)**

Revise language in both Rule 4.12(1) and 4.12(2) to swap all instances of the word “sex” for “gender/pronouns”

*Rationale: Promotes diversity and inclusivity, while also reflecting revised 2019-2020 captains forms*

**ADVANCED WITH A POSITIVE RECOMMENDATION**

**RULES-05 Motion by Warihay (on behalf of Scher) to add comment to Rule 4.9**

Add comment to Rule 4.9 to read “While only 1 captain is required, AMTA acknowledges that it is commonplace to have two captains attend captains’ meetings.”

*Rationale: More accurate reflection of procedures, which may be unclear to new schools*

**ADVANCED WITH A POSITIVE RECOMMENDATION**

**TAC-02 Motion by Thomason (as revised by Committee) to amend Rule 1.10** to include the following bolded text:

Rule 1.10 Damage to property. No participant shall intentionally take, move, or cause damage to any property of any school, courthouse, or facility hosting any part of a sanctioned tournament or belonging to the members of any other team. In the case of accidental damage or loss of any property, participants are required to report the event and circumstances immediately to appropriate officials. **For tournaments held in a courthouse, students may not, absent explicit permission, eat or drink in courtrooms, move or otherwise use items belonging to court staff (including, but not limited to the judge, courtroom deputy, or court clerk), or enter, use, or store items in areas, such as judge chambers or back hallways, not open to the general public.** Failure to comply with this rule may lead to a tournament penalty and/or sanction under Chapter 9.

*Rationale: Students may be competing in a courthouse for the first time at an AMTA-sanctioned tournament. As practicing lawyers and hosts know, it is imperative that we respect courthouses for many, many reasons. However, I think this clarification is helpful for individuals who never have entered a courthouse prior to a mock trial tournament.*

**ADVANCED WITH A POSITIVE RECOMMENDATION**

## Appendix B: Tabled Motions

### **CRC-02 Motion by Warihay (on behalf of Scher) to Revise Rulebook - Introduction**

Add “Invention of Fact Memorandum” with link to document to the introduction list of other documents in the AMTA universe

*Rationale: As a few of these motions indicate, it is important to acknowledge and highlight the existence of the memo as outside additional guidance beyond the language in the Rulebook itself, especially for schools less “in tune” to AMTA developments.*

**TAC-01 Motion by Leckrone** (also on behalf of Don Racheter) that each person sent to serve as an official AMTA Rep to a sanctioned tournament (who has not previously received a pin) shall be given an AMTA Lapel Pin to help identify them as a Rep, and they shall be allowed to keep the pin after their service as a token of appreciation.

## Appendix C: December 2018 Mid-Year Board Meeting Minutes

### **I. Call to Order**

#### **Attendance:**

Members present (25): Ben-Merre; Bernstein; Braunsberg; Detsky; Gelfand; Halva-Neubauer; Harper; Heytens; Holstad; Johnson; Langford; Leapheart; Leckrone; Michalak; Minor; Parker; Pavely; Racheter; Sohi; Thomason; Walsh; Warihay; Watt; West; Woodward

Members not present (3): Eslick; Haughey; Schuett

Candidate Members present (5): D’Ippolito; Henry; Hogan; Olson; Scher

Candidate Members not present (1): Jahangir

Staff & Guests (0):

Directors Emeritus (0):

### **II. Welcome and Remarks (Warihay)**

### **III. Format of Agenda:**

Delivered by Secretary – Pavely

All motions submitted were referred to the corresponding AMTA Committee pursuant to the policy adopted by the Board in 2007 (Rule 10.2.1). 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). The Committees had the option of tabling the motion, amending the motion or substituting the motion. Tabled motions retained their original designations, but are provided in an appendix. Motions could be advanced with recommendation or without. The final motion agenda order was subsequently set by the Executive Committee (AMTA Bylaws, Section 10.2.1) (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. (AMTA Bylaws, Section 4.10). Motions to amend the Bylaws required an affirmative vote of two-thirds of the Voting Directors (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 2018 Board Meeting.

#### **IV. Approval of Agenda**

**Motion to approve the agenda.** Seconded. **Motion passes.**

#### **V. Approval of 2019 Board of Directors Meeting minutes.**

**Motion to approve the minutes.** Seconded. **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. (i.e. EC-05 would be discussed after EC-04).

#### **VII. Committee Reports**

- U. Academics Committee (Leapheart): Oral report provided**
- V. Accommodations Committee (Michalak): Written report provided**
- W. Analytics Committee (Hogan): Written report provided**
- X. Audit Committee (Pavely): Oral report provided**
- Y. Budget Committee (Eslick): No report provided**
- Z. Civil Case Committee (Gelfand): Written report provided**
- AA. Criminal Case Committee (Schuett): Written report provided**
- BB. Competition Response Committee (Thomason): Written report provided**
- CC. Development Committee (Bernstein): Written report provided**
- DD. Disciplinary Committee (Bernstein): No report provided**
- EE. Ethics Committee (Langford): Written and oral report provided**
- FF. Human Resources Committee (Pavely): Oral report provided**
- GG. Intellectual Property Management Committee (Heytens): Oral report provided**
- HH. NCT Case Committee (Thomason): Written report provided**

- II. **New School and Mentorship Committee (Olson): Written report provided**
- JJ. **Rules Committee (Walsh): Written report provided**
- KK. **Strategic Planning Committee (Harper): Written report provided**
- LL. **Tabulation Advisory Committee (Woodward): No report provided**
- MM. **Tournament Administration Committee (Watt): Written and oral report provided**
- NN. **Tournament Future Planning Committee (Bernstein): No report provided**
- OO. **Website, Marketing and Social Media Committee (Scher): Written report provided**

### VIII. Motions:

**EXECUTIVE COMMITTEE-02: Motion by Thomason to revise Rule 8.9** to incorporate stylistic revisions and elements from the forthcoming Guidance Memorandum relating to the Rule.

*Rationale:* While I think Rule 8.9, in its current form, is clear, I also think there's value to making sure that we carefully consider whether the rule needs any stylistic provisions or to incorporate any of the forthcoming guidance in the body of the rule.

**ADVANCED WITH NO RECOMMENDATION**

**Motion fails for lack of a second.**

*Note:* A comment will be added to Rule 8.9 directing the reader to the location of the guidance memos.

**EXECUTIVE COMMITTEE-03: Motion by Bernstein to adopt the ORCS pairing plan** drafted by the Tabulation Advisory Committee (after the Board's conceptual approval of the plan at the 2019 annual meeting).

**ADVANCED WITH NO RECOMMENDATION**

### **Tabulation Advisory Committee ORCS Pairing Proposal**

At the 2019 annual meeting, the board of directors passed TFC-03:

Motion by Bernstein that, at ORCS, AMTA will use the following pairing system designed to equalize strength of schedule: Teams will be divided by TPR into four groups: Groups A (teams ranked 1-6), B (7-12), C (13-18), and D (19-24). Each team will face exactly one team from each of the four groups. The Tabulation

Advisory Committee is directed to create a detailed implementation of this policy for the Board's consideration at the 2019 mid-year meeting.

This is the implementation policy for the Board's consideration at the 2019 mid-year meeting.

### **Before the Start of the Tournament**

Before the start of each ORCS, AMTA shall divide all 24 teams into four groups of six teams. Assignment will be based on the most recent Team Performance Rankings. Group A will include the six highest-ranked teams; Group B will include teams ranked 7-12; Group C will include teams ranked 13-18; and Group D will include teams ranked 19-24.

If teams are tied in TPR such that it would affect group placement, ties shall be broken using results from the current year's regional tournaments. Tiebreakers, in order of application, are (1) ballots won, (2) combined strength (greater sum is better), (3) opponents' combined strength (greater sum is better), and (4) total point differential (greater positive differential is better). If teams remain tied, a coin flip will break the tie.

Because this pairing system is designed to equalize strength of schedule for teams in each group, schools gain no advantage by mislabeling their stronger team. Nonetheless, because such mislabeling can affect schedule equality for other teams, all schools advancing multiple teams to ORCS are required to honestly identify their stronger team (regardless of whether the school sends its teams to the same ORCS). Schools may seek AMTA guidance when doing so, and AMTA has authority to change the A/B designation given to each team from a school.

### **Pairing Round 1**

Round 1 pairings must occur in public, typically at the opening ceremony (pairings of later rounds will occur in the tabroom).

In Round 1, teams in Group A will face teams in Group D, and teams in Group B will face teams in Group C.

All teams in Groups A and B will represent one party (all Prosecution, or all Defense), and all teams in Groups C and D will represent the other party. For example, if Group A teams are Prosecution, then Group B teams are Prosecution, and Group C and D teams are Defense. Party representation will be determined randomly, e.g., by coin flip. (Note: All references to "Prosecution" shall refer to "Plaintiff" in civil cases.)

Otherwise, Round 1 pairing procedures at ORCS are identical to those at Regionals (e.g., the same-school matchup constraint remains in effect).

### **Pairing Round 2**

In Round 2, teams in Group A will face teams in Group C, and teams in Group B will face teams in Group D.

Otherwise, Round 2 pairing procedures at ORCS are identical to those at Regionals (e.g., high-high pairing, same-school matchup constraint, flip sides from Round 1, etc.).

### **Pairing Round 3**

In Round 3, each team will face another from its group (i.e., Group D teams will face teams in Group D). Pairing will be high-high, and cards will be placed using a “snake” order:

A1 v. A2  
A4 v. A3  
A5 v. A6

B2 v. B1  
B3 v. B4  
B6 v. B5

C1 v. C2  
C4 v. C3  
C5 v. C6

D2 v. D1  
D3 v. D4  
D6 v. D5

Impermissibles (same school matchups) will be resolved in the same fashion as at Regionals, though swaps and matchups must remain within-group (e.g., A6 cannot swap with B1). Sides will be determined via coinflip: if heads, all teams on the left (A1, B2, etc.) will represent Prosecution; if tails, all teams on the right (A2, B1, etc.) will represent Prosecution.

### **Pairing Round 4**

In Round 4, teams in Group A will face teams in Group B, and teams in Group C will face teams in Group D. Pairing will be high-high, subject to same-school matchup constraints and the requirement that each team represent a different party in Round 4 than it did in Round 3.

### **Determining Placement for Bids**

After Round 4, teams will be ranked using the same criteria used at Regionals (and previously used at ORCS).

### **Further detail and next steps**

Upon passage of the above procedures, the tabulation director, with support from the tabulation advisory committee, will update the tabulation manual to reflect these procedures. In addition, the tabulation manual will include instructions on team withdrawals and byebusters, judge assignments, and other issues that might be impacted by this revised ORCS pairing system.

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**Motion seconded by Woodward. Motion passes.**

## **IX. Unfinished/New Business**

**Motion by Watt and Woodward** to amend Rule 6.6(2) as follows:

### **Rule 6.6 Opening Round Championship Series Bids.**

**(2) ALLOCATION OF BIDS TO REGIONALS.** The total number of bids to the Opening Round Championship Series, as determined per Rule 6.6(1), shall be divided by the total number of Regional tournaments, with the resulting number being designated as the "Baseline" number of bids allocated to each Regional tournament. If the division of total bids by total number of Regional tournaments does not result in a whole number, the result shall be rounded down to the nearest whole number. Unless otherwise adjusted in accordance with subsections (a) and (b) below, all Regional tournaments shall receive the "Baseline" number of bids to the designated Opening Round Championship Series tournament(s).

#### **(a) Allocation of bids to Regionals with 20 or more bid-eligible teams.**

Should the number of Regionals not allow for equal distribution of the bids, each Regional shall receive the same number of bids, as outlined in Rule 6.6(2) above, and the remainder shall be distributed jointly by the National Tabulation Director and the Tournament Administration Committee Chair as follows: Regionals with 20 or more bid-eligible teams will be ranked according to the number of teams registered 48 hours prior to the start of the first Regional, from largest to smallest. The unassigned bids will be allocated beginning with the largest Regional tournament. If not all Regional tournaments with the same number of teams can be logistically accommodated, those bids will remain open bids. The number of bids allocated to each Regional will be confirmed at the time of each Regional tournament's registration based upon the number of teams that actually begin in Round 1. If the number of registered teams necessitates a change in the number of ORCS bids assigned, the AMTA Representatives, in consultation with the National Tabulation Director, will announce such at the Opening Ceremony. If team(s) withdraw from a Regional tournament during or after Round 1 begins, the number of bids will not be affected. If a bid is removed from a Regional, that bid shall become an Open Bid.

**(b) Allocation of bids to regionals with fewer than 20 bid-eligible teams.** For Regional tournaments with fewer than 20 bid-eligible teams, Opening Round Championship Series bids shall be allocated as follows:

<b>No. of Bid-Eligible Teams</b>	<b>ORCS Bids Allocated</b>
At least 6, but fewer than 9	“Baseline’ minus 5
At least 9, but fewer than 12	“Baseline’ minus 4
At least 12, but fewer than 15	“Baseline’ minus 3
At least 15, but fewer than 18	“Baseline’ minus 2
At least 18, but fewer than 20	“Baseline’ minus 1

The number of bids allocated to each Regional will be confirmed at the time of each Regional tournament's registration based upon the number of teams that actually begin in Round 1. If the number of registered teams necessitates a change in the number of ORCS bids assigned, the AMTA Representatives, in consultation with the National Tabulation Director, will announce such at the Opening Ceremony. If team(s) withdraw from a Regional tournament during or after Round 1 begins, the number of bids will not be affected. If a bid is removed from a Regional, that bid shall become an Open Bid.

***Rationale:*** Rule 6.6 was updated years ago to allow for the even distribution of ORCS bids to all Regionals in this world where the number of Regional tournaments fluctuates from year-to-year. In doing so, the first part of the Rule (6.6(1)) was adjusted, but the second part was not. This Motion seeks to accomplish the original goal of the re-working of the bid allocation rule by removing the rigid number requirements for the smaller tournaments and making it all relative to the number of bids given to each Regional. By establishing a “Baseline” number of bids and working from that number, this rule becomes more workable in a world where the number of regionals is fluid and changes from year-to-year based on available hosts, number of teams, and demand, while also keeping the proportions of teams that advance even relative to each Regional across the country.

**Motion seconded by Harper. Motion passes.**

Report given by Detsky on the summer Board Meeting.

**X. Adjournment**



## **Appendix A: Tabled Motions**

**EXECUTIVE COMMITTEE-01: Motion by Gelfand (on behalf of Jahangir that,** for ORCS and the National Championship Tournament, rosters may include up to 12 students.

*Rationale: While there is much debate on viable ways to open ORCS and the NCT to more students, one simple way that can be implemented now would be to increase the roster size for ORCS and the NCT from 10 to 12 students. Doing so would potentially open ORCS and the NCT to up to hundreds of additional students, depending on the extent that programs make use of the additional roster space. Moreover, as the NCT host is no longer required to host a banquet, this is the best time to implement such a change since the increased rosters will not burden hosts. Finally, as this does not change anything until after Regionals, this is something that can be adopted this December at the Mid-Year rather than waiting until the summer, especially as adopting at the Mid-Year would open ORCS and the NCT to more students starting this season.*

## **Appendix B: 2019 Board Meeting Minutes [Omitted]**