



# Competitions

## **MULS Negotiations Rules**

## **THE COMPETITION**

Dispute resolution is a highly sought skill by employers in an era where litigation is becoming superseded by an interest to pursue pre-trial discussion. As little knowledge of substantive law is required, the Negotiations Competition is accessible to every student!

The competition involves the negotiation of a legal problem between two opposing teams of two law students. Both teams are given a set of common facts, as well as confidential information specific to either team – and not known by the opposition.

The Negotiation consists of one 40-minute session where teams negotiate an agreement that attempts to meet their client's best interests. Following the session each team conducts a 10-minute self-analysis in the presence of the judge, where they analyse their performance by reference to a number of key questions.

Please ensure that you read MULS Competitions Appeals and Forfeiture Policy.

## COMPETITIONS RULES

### 1. TEAMS

- 1.1. All students undertaking an undergraduate LLB degree at Macquarie University (including those under the graduate structure) are eligible to compete.
- 1.2. Team members must not have completed a law degree or equivalent qualification for legal practice in any jurisdiction.
- 1.3. The winning MULS Negotiations team will represent the University at the national ALSA Conference and therefore must be enrolled in an undergraduate LLB degree or equivalent graduate LLB degree at Macquarie University at the time of the ALSA Competition in July of that year.

If 1 or more members of the winning Negotiations team cannot attend ALSA pursuant to rule 1.3 above, then the remaining members of that team will automatically be selected to represent MULS at ALSA.

Where there are vacancies in the ALSA team, selections shall pass to the runners up. The Competitions Department shall have discretion and must determine which members of the runner up team shall fill the remaining spots.

- 1.4. There shall be a maximum number of 40 teams for the Negotiations Competition.
- 1.5. Each team shall consist of a maximum of two (2) members.
- 1.6. The team members of the Negotiations team must remain the same for the duration of the MULS Competition.
- 1.7. All formal communication for the Competition shall be conducted by email to both official email addresses nominated by each team. **It is every competitor's responsibility to check their nominated email address regularly for competition information.**

### 2. COMPETITION STRUCTURE

- 2.1. The Negotiations Competition shall consist of three preliminary rounds, one Quarter Final round, one Semi Final round and a Grand Final.
- 2.2. **Preliminary Round Procedures**
  - 2.2.1. Teams will be allocated their opposing team and their side by random draw.
  - 2.2.2. Teams will be allocated a party to represent by random draw.
  - 2.2.3. Eight (8) teams will progress to the Quarter Finals. Four (4) teams will progress to the Semi Finals. Two (2) teams will progress to the Grand Final.
  - 2.2.4. Selection for the Quarter Final teams will be determined by the Evaluation Process below.

## **2.3. Explaining the Evaluation Process**

### Tier One of the Evaluation Process

- 2.3.1. Tier One involves determining the win-loss ratio of every team that has competed based on the amount of rounds they competed in.
- 2.3.2. For example, a team who wins three (3) of the three (3) preliminary rounds will have a one hundred per cent (100%) win-loss ratio. A team who wins two (2) of the three (3) preliminary rounds will have a sixty-six per cent (66%) win-loss ratio. A team who only competes twice and wins one (1) round will have a fifty per cent (50%) win-loss ratio. A team who wins one (1) of three (3) preliminary rounds will have a thirty-three per cent (33%) win loss ratio. A team who wins no rounds will have a zero per cent (0%) win-loss ratio.
- 2.3.3. Only teams who have competed three (3) times in the preliminary rounds will be eligible to proceed to the Finals according to this tier. For example, a team that has won two (2) out of two (2) rounds will only be eligible to proceed according to rule 2.4.4 below.

### Tier Two of the Evaluation Process

- 2.3.4. Tier Two involves ranking all remaining teams based on their total amount of wins, irrespective of how many rounds they competed in. In this process, teams with two (2) wins out of three (3) preliminary rounds will be considered the same as teams with two (2) wins out of two (2) preliminary rounds.

### Tier Three of the Evaluation Process

- 2.3.5. Tier Three involves determining the mean margin score (“MMS”) that each team has accumulated. This is calculated as the average margin of points by which a team won or lost. A team that wins a round will receive a positive score for that round. The losing team of that same round will receive a negative score. At the end of the preliminary rounds, the average margin will be calculated.
- 2.3.6. For example, if a team wins round one by ten (10) points they will have a score of positive ten (+10). If that team wins the second round by five (5) points, their aggregate score by the end of round two will be positive fifteen (+15). If the same team loses round three by six (6) points, their aggregate score will be positive nine (+9). That number will be divided by the number of rounds that the team have competed in, creating their MMS. Therefore, their MMS will be three (3).

### Tier Four of the Evaluation Process

- 2.3.7. Tier Four involves determining the mean score (“MS”) that each team has accumulated, and will be determined by aggregating the total scores that each team has achieved in all of the rounds that they have competed in, and dividing that number by the amount of rounds that the team competed in.

2.3.8. For example, if a team receives a score of sixty (60) in the first round, sixty-five (65) in the second round, and seventy (70) in the third round, their mean score will be sixty-five (65).

#### Tier Five of the Evaluation Process

2.3.9. Tier Five involves determining the highest score that each team has achieved from any of the rounds that the team competed in.

### **2.4. Applying the Evaluation Process**

2.4.1. In the event of there being exactly eight (8) teams with the highest win-loss ratio, according to Tier One of the Evaluation Process, these eight (8) teams will proceed to the Quarter Finals automatically.

2.4.2. In the event of there being less than exactly eight (8) teams with the highest win-loss ratio, the teams that proceed to the Quarter Finals will be selected according to the following process:

2.4.2.1. Those teams with the highest win-loss ratio will automatically proceed through to the Quarter Finals pursuant to Tier One of the Evaluation Process.

2.4.2.2. All remaining teams (including those who have competed less than three (3) times) **who have not previously forfeited a round** will be eligible for selection to proceed to the Quarter Finals.

2.4.2.3. All remaining teams will be ranked according to their total wins (Tier Two). The highest-ranking teams will proceed.

2.4.2.4. Where there are fewer teams that share highest total wins than there are places available in the Quarter Finals, the teams within the next highest bracket of total wins will proceed to the Quarter Finals and so on until all places are filled. Where there are more teams within a bracket than there are places available in the Quarter Finals, rank only these teams as per rule below (Tier Three).

2.4.2.5. The contending teams with a shared total win score as per the process above will be ranked according to their MMS (Tier Three). Proceeding teams will be chosen according to their ranked MMS from highest to lowest number until all places are filled.

2.4.2.6. Where there are more teams that share an MMS than there are places available in the Quarter Finals, then only these teams will be further ranked according to their MS (Tier Four). Of these teams, the teams with the highest MS will proceed to the Quarter Finals.

2.4.2.7. Where there are more teams that share an MS than there are places available in the Quarter Finals, these teams only will be further ranked according to their highest score achieved in any round (Tier Five). Of these teams, the teams with the highest score from any round will proceed to the Quarter Finals.

2.4.2.8. If, after applying Tier Four of the process, there are still positions available at the Quarter Final rounds, the remaining spots will be decided based on a coin

toss conducted between the Director (Competitions) and the Competitions Officer (Skills). The teams eligible to be considered in the coin toss will be those eligible at s 2.4.2.8 above of the selection process. The Director (Competitions) and the Competitions Officer (Skills) will randomly select teams from this group to be subjected to the coin toss.

2.4.3. In the event of there being more than exactly eight (8) teams with the highest win-loss ratio (according to Tier One), the teams that proceed to the Quarter Finals will be selected according to the following process:

2.4.3.1. Only these teams will be considered at any stage hereafter to proceed to the Quarter Finals.

2.4.3.2. Those teams will be ranked according to their MMS (Tier Three). Proceeding teams will be chosen according to their ranked MMS from highest to lowest number until all places are filled.

2.4.3.3. Where there are more teams that share an MMS than there are places available in the Quarter Finals, then only these teams will be further ranked according to their MS (Tier Four). Of these teams, the teams with the highest MS will proceed to the Quarter Finals.

2.4.3.4. Where there are more teams that share an MS than there are places available in the Quarter Finals, these teams only will be further ranked according to their highest score achieved in any round (Tier Five). Of these teams, the teams with the highest score from any round will proceed to the Quarter Finals.

2.4.3.5. If, after applying Tier Five of the process, there are still positions available at the Quarter Final rounds, the remaining spots will be decided based on a coin toss conducted between the Director (Competitions) and the Competitions Officer (Skills). The teams eligible to be considered in the coin toss will be those eligible at s 2.4.3.4 above of the selection process. The Director (Competitions) and the Competitions Officer (Skills) will randomly select teams from this group to be subjected to the coin toss.

## **2.5. Finals Procedures**

2.5.1. The teams proceeding from the preliminary rounds to the Finals will be announced after the conclusion of the preliminary rounds, and once the proceeding teams have been approved according to the above process by the Competitions Department.

2.5.2. The eligible Final teams will be ranked according to their MMS, irrespective of which tier they qualified. The draw for the first round of the Finals will be determined by 'folding' the rankings. For example, Team One (1) will verse Team Eight (8), Team Two (2) will verse Team Seven (7) and so on. If there is no Quarter Final round, Team One (1) will verse Team Four (4), Team Two (2) will verse team Three (3).

2.5.3. The Quarter Finalists will be allocated to a side to represent by random draw.

2.5.4. The winning team from each Quarter Final will advance to the Semi Final Round.

2.5.5. The Semi Final teams will be ranked according to their scores in the Quarter Final rounds. The draw for the Semi Finals will be determined by 'folding' the rankings. For example, Team One (1) will verse Team Four (4) and Team Two (2) will verse Team Three (3).

2.5.6. The Semi Finalists will be allocated a side to represent by random draw.

2.5.7. The winning team from each Semi Final will advance to the Grand Final Round.

2.5.8. The Grand Finalists will be allocated a side to represent by random draw.

## RELEASE OF THE NEGOTIATION SCENARIO

### 3.1. Release of Preliminary Round Negotiation Scenarios

3.1.1. Each preliminary round has a separate scenario.

3.1.2. The scenarios involve two sets of information: first, a common set of facts known by all participants, and, second, additional confidential information known only to the teams representing a particular side in the negotiation.

3.1.3. Legal background information may also be provided to participants.

3.1.4. Scenarios for the preliminary rounds are released the Friday preceding the commencement of each preliminary round giving each team a **minimum of three days preparation**.

3.1.5. Scenarios for the preliminary rounds will be released via email directly to competitors. Competitors will be penalised if it is substantiated that confidential information relating to the negotiation scenarios is left in public access areas of the university.

### 3.2. Release of Finals Questions

3.2.1. Semi and Grand Finalists are notified of the next round's scenario by **no later than five days prior to the Semi or Grand Final round**.

## 3. PREPARATION

4.1. No one may attempt to communicate in any way with any of the participants during a round, from the beginning of the participants' negotiation session to the completion of the last self-analysis period of the round.

4.1.1. If a team mistakenly receives material meant for another team they must report the occurrence immediately to the Competitions Department who will decide on an equitable course of action.

4.1.2. Subject to rule 4.1.1, the mere act of communication or receipt of information proscribed by this rule constitutes a breach of the rules, regardless of the substance thereof and regardless of whether initiated by a participant or by any other person.

4.2. Breach of 4.1, 4.1.1 or 4.1.2 results in disqualification from the competition.

6.1.1. Innocent mistake is not a defence to a complaint based on breach of this rule; even casual exchanges unrelated to the substance of the negotiation are enough to breach 4.1, 4.1.1 or 4.1.2.

## **4. JUDGING**

### **5.1. Number of judges**

5.1.1. The preliminary rounds are heard by at least one judge.

5.1.2. The Quarter Final rounds are heard by one or three judges, depending on availability.

5.1.3. The Semi Final rounds are heard by one or three judges, depending on availability.

5.1.4. The Grand Final will be heard by two, three or five judges, depending on availability.

5.2. Judges will be judges, magistrates, legal academics, legal practitioners or others with a demonstrated experience in judging and competing in Negotiations competitions.

5.3. Judges shall be provided with the common information of the negotiation scenario as well as the confidential information for both teams. A marking schedule will also be provided to all judges to assist in marking individual competitors.

5.4. If there is a panel of judges judging the round, the judges must come to consensus as to the winner.

## **6. JUDGING STANDARDS**

6.1. The judging standards recognise that there is no one “correct” approach to conducting a negotiation. Instead the strategies and techniques used will vary according to the nature of the problem, the personalities involved and other circumstances. However, the effectiveness of a negotiation can be judged, at least in part, by its outcome.

6.2. Any marking criteria should not be read as requiring that the parties reach an agreement. In some situations, the best outcome might be no agreement at all. Thus, the judging standards (below) focus on planning and the negotiation process itself, allowing a team to achieve a high score even if no agreement was reached.

6.3. Teams compete for a maximum 100 marks. Each panel of judges scores each team against the following standards:

6.3.1. NEGOTIATION PLANNING (10 marks). Judging from its performance and its apparent strategy, how well prepared did this team appear to be?

- 6.3.2. FLEXIBILITY IN DEVIATING FROM PLANS OR ADAPTING STRATEGY (10 marks). How flexible did this team appear to be in adapting its strategy to the developing negotiation, e.g., to new information or to unforeseen moves by the opposing team?
- 6.3.3. TEAMWORK (10 marks). How effective were the negotiators in working together as a team, in sharing responsibility, and providing mutual backup?
- 6.3.4. RELATIONSHIP BETWEEN THE NEGOTIATING TEAMS (10 marks). Did the way this team managed its relationship with the other team contribute to or detract from achieving its client's best interests?
- 6.3.5. NEGOTIATING ETHICS (10 marks). To what extent did the negotiating team observe or violate the ethical requirements of a professional relationship?
- 6.3.6. OUTCOME OF SESSION (10 marks). Based on what you observed in the negotiation and the self analysis, to what extent did the outcome of the session, regardless of whether agreement was reached, serve the client's goals?
- 6.3.7. SELF-ANALYSIS (10 marks). Students will begin this 10-minute period by answering, in the presence of the judges, the following questions: (1) "In reflecting on the entire negotiation, if you faced a similar situation tomorrow, what would you do the same and what would you do differently?" (2) "How well did your strategy work in relation to the outcome?" Based on the team's self analysis during the review session, how adequately has it learned from today's negotiation?
- 6.3.8. EXPLORATION OF INTERESTS (10 marks). How well did students communicate their client's interests and also seek to ascertain the other side's client's interests.
- 6.3.9. CREATIVITY OF OPTIONS (10 marks). How creative were the options made available? How feasible were they?
- 6.3.10. COMMUNICATION (10 marks). How well did the team communicate, both verbally and in written form to the other side?

## **7. THE NEGOTIATIONS**

- 7.1. Each round consists of a 50 minute negotiation session.
- 7.2. As part of the session each team may take no more than one break of no more than 5 minutes for the team to discuss strategy privately.
- 7.3. The 50 minute period continues to run during any such break.
- 7.4. If a break is called, both teams must leave the room during the break, or at least, the judge must not be in the presence of either team.
- 7.5. During a break, teams may not confer with any other person except amongst themselves.
- 7.6. At the end of the 50 minute period, each team has a 10 minute period of private reflection to analyse their performance.

7.7. After the private reflection, each team, in the absence of the opposing team, conducts a 10 minute self-analysis in the presence of the judges. The team should analyse its performance in the negotiation by answering the following questions:

7.7.1. In reflecting on the entire negotiation, if you were to be faced with a similar situation tomorrow, what would you do the same and what would you do differently?

7.7.2. How well did your strategy work in relation to the outcome?

7.8. The judge(s) will determine which team is to go first in the self analysis, at the end of the ten minute private reflection period.

7.9. The teams should also be prepared to respond to questions from the judges concerning the team's performance. In addition, the team may use this as an opportunity to explain why it chose a particular approach or even a specific tactic. The judges may take into consideration for scoring purposes anything said during this session.

7.10. At the end of the 10 minute self-analysis, the judge(s) may spend up to but no longer than 10 minutes to provide feedback. They may elect to dispense with this rule and instead provide feedback in the presence of both teams at the end of the second team's self-analysis.

7.11. Judges must give oral feedback.

7.12. Judges may deduct points if a competitor of either team arrives late for the negotiation at their sole discretion. If a competitor arrives later than 30 minutes after the time the negotiation is scheduled to start, then that competitor's team shall be deemed to have forfeited.

## **8. TIMEKEEPING**

8.1. Responsibility rests with the student participants for timekeeping and for adherence to allotted time periods and breaks. If resources and volunteers are available, timekeepers or timekeeping devices may be provided.

8.2. Decisions by the judges as to elapsed time are final and non-reviewable.

## **9. OBSERVATIONS**

9.1. Observation of the Competition is permitted, however potential for disruption must be minimised. Observers must not enter or leave the room during the negotiation session or the self-analysis period.

9.2. Judges may, if they wish, request that observers leave the room while they confer. Apart from that discretion, observers may watch all segments of a round.

9.3. Competitors are not permitted to use mobile phones during the preparation or judging period. Mobile phones carried by competitors must be switched off during this time.

9.4. No observer shall attempt to communicate in any way with any team members from the beginning of the participants' negotiation session to the conclusion of the last self-analysis. Any communication breaches this rule and may result in disqualification.

## **10. FORFEITURE**

- 10.1. Teams will refer to the Macquarie University Law Society Appeals and Forfeiture Policy available at [www.muls.org](http://www.muls.org).

## **11. THE COMPETITIONS DEPARTMENT**

- 11.1. The Competitions Department consists of the Director (Competitions), Competitions (Skills) Officer and Competitions (Advocacy) Officer.
- 11.2. The Competitions Department may alter the Competition rules at any time. Teams affected by rule changes will be notified as soon as reasonably possible.
- 11.3. The Competitions Department shall determine questions and the draw for each round except where provided otherwise by these rules.
- 11.4. Any serious breaches of these rules may result in a ban from current and future MULS Competitions at the discretion of the Competitions Department. Please refer to the MULS Appeals and Forfeiture Policy (available at [www.muls.org](http://www.muls.org)).
- 11.5. On any matter relating to the conduct and outcome of the Macquarie University Negotiations Competition, the decision of the Competitions Department is final.
- 11.6. Any disputes should be made immediately to the MULS Director (Competitions) who shall then refer the matter to the Competitions Department. The Competitions Department shall attempt to provide a resolution in a timely and efficient manner.

## **12. BREACHES OF THE RULES**

- 12.1. Teams that believe that a competitor(s) have breached any of these rules should refer to the MULS Appeals and Forfeiture Policy (available at [www.muls.org](http://www.muls.org)).