

# DUKE UNIVERSITY SCHOOL OF LAW MOOT COURT BOARD

## **Constitution and Bylaws**

### **ARTICLE I: NAME**

The name of this organization shall be the Duke University School of Law Moot Court Board.

### **ARTICLE II: PURPOSE**

This Constitution and Bylaws shall govern the Duke University School of Law Moot Court Board, hereinafter the "Board," an entirely student-managed organization established to encourage the development of appellate advocacy as a skill among law students. To that end, the Board pledges to sponsor annual moot court competitions and to pursue interscholastic opportunities for students to distinguish themselves through excellence as advocates.

### **ARTICLE III: MEMBERSHIP**

#### **A. Eligibility for Membership**

All students of Duke University School of Law who participate in intramural moot court competitions sponsored by the Board are eligible for membership on the Board.

#### **B. Selection of Members**

##### **1. Dean's Cup**

##### **a. Eligibility:**

- i. Students in their second and third years are eligible to participate in the Dean's Cup competition.
- ii. For purposes of this section, "eligible competitors" are all those preliminary round competitors who seek Board membership through their performance in the Dean's Cup.

##### **b. Scoring and Selection:**

- i. All eligible competitors who receive scores in the preliminary rounds that place them within the top 16 competitors overall shall be selected for Board membership. Additional eligible competitors shall be selected for Board membership until a total number equal to thirty-five (35%) of the eligible competitors shall have been selected, provided that the total number of competitors selected for membership shall not be fewer than four (4).
- ii. The number of eligible competitors to be selected for Board membership shall be calculated at the beginning of round one (i.e., 35% of the number of competitors who start the oral arguments). In the event that determining the top 35% results in a fractional number, that number shall be rounded up to the next whole number.
- iii. In the event of a tie for the last qualifying position in the final rankings, each competitor sharing the lowest qualifying score shall be selected for Board membership, notwithstanding the limits established in Article III(B)(1)(b)(i).
- iv. Each competitor's score shall be calculated according to criteria

established in advance by the Dean's Cup Coordinators in conjunction with the President and the Intramural Chair.

- v. Elimination round competitors will be chosen on the basis of oral argument scores only.

## 2. Hardt Cup

### a. Eligibility:

- i. Competition in the Hardt Cup is open only to first-year students.
- ii. For the purposes of this section, "eligibility" shall be defined as "those participants who have completed the mandatory round and all additional scheduled rounds." Any situation where a competitor is forced to miss a scheduled round for an emergency or other dire circumstances beyond his or her control shall be evaluated and adjudicated on a case-by-case basis by the Hardt Cup Coordinators.

### b. Scoring and Selection:

- i. The top ten percent (10%) of the number of competitors obligated to participate in the mandatory round shall be selected for Board membership, provided that the number of competitors selected for membership shall not be fewer than twenty (20).
- ii. In the event that determining the top 10% results in a fractional number, that number shall be rounded up to the next whole number.
- iii. In the event of a tie for the last qualifying position in the final rankings, each competitor sharing the lowest qualifying score shall be selected for Board membership, notwithstanding the limits established in Article III(B)(2)(b)(i).
- iv. For purposes of selecting members, each competitor's total score is the average of all but his or her highest and two lowest oral argument scores.

## 3. Jessup Competition

### a. Eligibility:

- i. For purposes of this section, "eligible competitors" are all those preliminary round competitors who seek Board membership through their performance in the Jessup Cup.

### b. Scoring and Selection:

- i. At the conclusion of at least two (2) preliminary rounds, the top ten percent (10%) of the eligible competitors shall be selected for Board membership, provided that the number of competitors selected for membership shall not be fewer than two (2).
- ii. The number of eligible competitors to be selected shall be calculated at the beginning of round one (i.e., 20% of the number of competitors who start the oral arguments). In the event that determining the top 20% results in a fractional number, that number shall be rounded up to the next whole number.
- iii. In the event of a tie for the last qualifying position in the final rankings, each competitor sharing the lowest qualifying score shall be selected for Board membership, notwithstanding the limits established in Article

III(B)(3)(b)(i).

- iv. Each competitor's score shall be calculated according to criteria established in advance by the Jessup Cup Coordinators and approved by the President and the Intramural Chair.

4. Scoring

- a. The Dean's Cup, Hardt Cup, and Jessup Cup Coordinators, in conjunction with the Intramural Chair, shall be responsible for maintaining an accurate account of all competitors' scores throughout the respective competitions.
- b. The scoring sheet used during these competitions shall be determined by the Coordinators in conjunction with the Intramural Chair. The objective of the scoring sheet is to prevent arbitrary and capricious scoring. Judges shall maintain an objective standard so that the selection process is indicative of true merit. Judges violating these standards shall be subject to sanctions prescribed in Section D below.

5. Competition Rule Violations

The Dean's Cup, Hardt Cup, and Jessup Cup Coordinators, in conjunction with the President and the Intramural Chair, shall prescribe, prior to the respective competitions, what constitutes a violation of the competition's rules and the consequences for any violation, as well as the procedures to be used for investigating allegations.

6. Invitations

Invitations to the Board are to be extended as soon as final results are tabulated and verified by the President and the Chairs, and are to note that acceptance is at the option of the invitee. Each invitee shall be made aware generally of the requirements and expectations of Board membership.

**C. Duties of Members**

1. Each Board member must serve as a judge in any intramural tournaments run by the Board as necessary, regardless of when membership is attained
2. In each full academic year of membership on the Board, each Board member must:
  - a. Serve on the Board's Executive Committee, or
  - b. Compete in the Dean's Cup, or
  - c. Compete in an approved interscholastic competition, or
  - d. Serve in some other position designated by the Executive Committee as sufficient to fulfill the member's duties to the Board.

Members must notify the President and the Interscholastic Chair of the manner in which they will fulfill this requirement by a date set by the Interscholastic Chair.

3. Each Board member must attend all board meetings and training sessions.
4. The President, in consultation with the Interscholastic Coordinator, may exempt a Board member from any or all of the above participation requirements due to extenuating circumstances.
5. Board members serving as Teaching Assistants that, by the nature of their position, provide substantial support to the Board's intramural tournaments, may apply to the President for an exemption from the requirements of subsection 2 above. The President

- in consultation with the Interscholastic Chair may grant or deny such an application.
6. Board members shall at all times maintain absolute confidentiality regarding the status and scores of competitors and the proceedings of the election meeting. Furthermore, Board members shall not violate any trust given them in their capacity as Board members.

#### **D. Sanctions**

1. Failure to comply with the requirements detailed in Section C above, as determined by the President, the Intramural Chair, and the Interscholastic Chair collectively by review of Board records, will result in disciplinary action.
  - a. For members with an additional year of eligibility (2Ls), failure to comply with the requirements detailed in Section C will result in a temporary suspension pending satisfactory completion of outstanding obligations the following year. The temporary suspension will take effect via a notation on the Membership page of the Moot Court Board website that the member's "Moot Court Board membership is temporarily suspended due to a failure to satisfy Board obligations."
  - b. For members in their final year of eligibility (3Ls), failure to satisfy outstanding obligations under a temporary suspension or failure to satisfy obligations in the current year will result in a revocation of membership. The revocation will take effect via a notation that the former member's "Moot Court Board membership has been revoked due to a failure to satisfy Board obligations."
2. A determination based in Subsection 1 above can be appealed to the entire membership of the Board, and the determination will be reversed by a majority vote of the Board. The member appealing a determination will inform the President of the appeal, in writing and will note preference for appeal proceedings to be conducted by meeting or by virtual forum as outlined below:
  - a. By meeting: Appeal by meetings requires the President to call for a quorum of the Board to meet as soon as is reasonably possible. At the meeting, the President will explain to the Board why the determination was initially made, followed immediately by an explanation from the member appealing the determination as to why the determination was inappropriate. Board members will then vote on whether to overturn the determination.
  - b. By virtual forum: Appeal by virtual forum requires the President to explain to the Board why the determination was initially made by email, the appealing member will have twenty-four hours to respond to the Board why the determination was inappropriate by email, and the Board will have the opportunity to vote on the appeal electronically for the 48 hours immediately following receipt of the appealing member's email.
3. Per Section Six of the Rules & Policies promulgated by Duke University School of Law, it is an honor code violation to make false or misleading statements in an interview or on a resume. Failure to inform employers or prospective employers of a change in the status of a student's Moot Court Board membership is considered to be a false or misleading statement.

### **E. Resignation of Membership**

Resignation of any member of the Board may be accepted by the President, or in the absence of the President, by the Chairs. The Executive Committee and membership may be notified of any resignation, at the discretion of the President.

## **ARTICLE IV: OFFICERS**

### **A. Executive Committee**

The Executive Committee, composed of the Constitutional officers of the Board, shall exercise or delegate all reasonable and necessary powers for the governance of the Board in accordance with this Constitution and Bylaws of the Board.

### **B. President**

As the chief executive officer of the Board, the President shall preside at all meetings of the Board and its Executive Committee and has ultimate responsibility for all Board functions. The President shall be the Board's representative to the faculty, administration, student body, and public. The position of President is elected by the entire membership of the Board, as described in Section K below. This position may be held by only one (1) person.

### **C. Intramural Chair**

1. The Intramural Chair directly oversees the planning and implementation of all intramural tournaments conducted by the Moot Court Board, including the Jessup Cup, the Dean's Cup, and the Hardt Cup. The Intramural Chair shall consult regularly with the President and the coordinators of the Board's intramural competitions in order to establish and implement uniform Board policies for the running of the Board's tournaments, and in order to streamline the decision-making process in the running of those tournaments.
2. The Intramural Chair shall provide any support necessary to the intramural tournament coordinators in order to ensure that the Board's competitions are successful. The Intramural Chair may not compete in any intramural moot court tournament during his or her term in office.
3. The position of Intramural Chair is elected by the entire membership of the Board, as described in Section K below. This position may be held by only one (1) person.

### **D. Interscholastic Chair**

1. The Interscholastic Chair directly oversees the preparation of all teams representing Duke University School of Law in interscholastic moot court tournaments. The Intramural Chair shall consult regularly with the President, the Interscholastic Coordinators, and the coaches of the Board's interscholastic teams in order to ensure the successful preparation of those teams, and in order to streamline the decision-making process in the preparation of those teams. In conjunction with the President, the Interscholastic Chair shall appoint and supervise coaches to facilitate successful team preparation.
2. The Interscholastic Chair shall provide any support necessary to team coaches and members; this duty includes, but is not limited to, assisting in or overseeing the preparation of teams' briefing and mooting schedules; coordinating faculty and alumni moots; and reviewing tournament rules to determine how teams can most effectively compete in their respective competitions.

3. The Interscholastic Chair shall serve as student coach of the team representing the Board in the first tournament of the academic year with a national qualifying component; this requirement may be waived only by prior express approval of a majority of the members of the Executive Committee following an Executive Committee Meeting.
4. The position of Interscholastic Chair is elected by the entire membership of the Board, as described in Section K below. This position may be held by only one (1) person.

#### **E. Secretary**

The Secretary's duties include, but are not limited to, notifying the membership of all general and Executive Committee meetings; recording the minutes of all meetings; maintaining attendance and membership records; acting as liaison to the non-Law School public; promoting the Board and publicizing the Board's activities; maintaining and updating the Moot Court Board website (for this purpose, the Secretary can call on other members of the board with website experience, if necessary). Further, the Secretary is responsible for administering the funds of the Board with the consent of the President and must also maintain the records of all financial transactions of the Board and issue periodic reports of the status of the Treasury. The position of Secretary is appointed by the President. This position may be held by only one (1) person.

#### **F. Hardt Cup Coordinators(s)**

1. The Hardt Cup Coordinators shall administer the Hardt Cup Competition. Their duties shall include, in part, providing the problems for the competition; scheduling student judges; providing rooms for arguments; recording judges' scores; and circulating such information and publicity necessary for the smooth functioning of the competition. The Hardt Cup Coordinators, or their designees, shall, during the term of the competition, serve as final arbiters of any procedural questions arising from the competition. Furthermore, the Hardt Cup Coordinators, in conjunction with the President and the Intramural Chair, shall prescribe prior to the competition what constitutes a violation of the competition's rules and the consequences for any violation, as well as the procedures to be used for investigating allegations.
2. The number of Hardt Cup Coordinators may be set by the Executive Committee two weeks prior to the election meeting. This number shall not exceed four (4). At the election meeting, the number of positions to be filled can be reduced or increased by a majority vote of the members present, but this number shall never exceed four (4). The position of Hardt Cup Coordinator is elected by the entire membership of the Board, as described in Section K below.

#### **G. Dean's Cup Coordinator(s)**

1. The Dean's Cup Coordinators shall administer the Dean's Cup Competition. Their duties shall include, in part, providing the problems for the competition; scheduling judges; providing rooms for arguments; recording judges' scores; and circulating such information and publicity necessary for the smooth functioning of the competition. The Dean's Cup Coordinators, or their designees, shall, during the term of the competition, serve as final arbiters of any procedural questions arising from the competition. Furthermore, the Dean's Cup Coordinators, in conjunction with the President and the Intramural Chair, shall prescribe prior to the competition what constitutes a violation of the competition's rules and the consequences for any violation, as well as the procedures to be used for investigating allegations.

2. The number of Dean's Cup Coordinators may be set by the Executive Committee two weeks prior to the election meeting. This number shall not exceed four (4). At the election meeting the number of positions to be filled can be reduced or increased by a majority vote of the members present, but this number shall never exceed four (4). The position of Dean's Cup Coordinator is elected by the entire membership of the Board, as described in Section K below.

#### **H. Jessup Cup Coordinator(s)**

1. The Jessup Cup Coordinators shall administer the Jessup Cup competition. The Jessup Cup Coordinators, or their designees, shall, during the term of the competition, serve as final arbiters of any procedural questions arising from the competition. Furthermore, the Jessup Cup Coordinators, in conjunction with the President and the Intramural Chair, shall prescribe prior to the competition what constitutes a violation of the competition's rules and the consequences for any violation, as well as the procedures to be used for investigating allegations.
2. The number of Jessup Cup Coordinators may be set by the Executive Committee two weeks prior to the election meeting. This number shall not exceed three (3). At the election meeting the number of positions to be filled can be reduced or increased by a majority vote of the members present, but this number shall never exceed three (3). The position of Jessup Cup Coordinator is elected by the entire membership of the Board, as described in Section K below.

#### **I. Alumni and Social Director**

The Alumni and Social Director shall organize and oversee all social functions provided for the Board membership, including a social event in the Fall semester and the end-of-the-year banquet. The Alumni and Social Director is responsible for organizing and overseeing involvement with Moot Court Board alumni. In conjunction with the President, the Alumni and Social Director shall seek funding from outside the law school for the Board's social functions. This position is elected by the entire membership of the Board, as described in Section K below. This position may be held by up to two (2) people.

#### **J. Interscholastic Coordinator(s)**

1. The Interscholastic Coordinators shall assist the Interscholastic Chair in overseeing all interscholastic and national moot court competitions entered by Board members. The Coordinators' duties shall include the following: preparing travel arrangements and accommodations for the teams; assisting teams in their preparation for tournaments; and performing any other tasks requested by the President or the Interscholastic Chair.
2. The number of Interscholastic Coordinators may be set by the Executive Committee two weeks prior to the election meeting. This number shall not exceed three (3). At the election meeting the number of positions to be filled can be reduced or increased by a majority vote of the members present, but this number shall never exceed three (3). The position of Interscholastic Coordinator is elected by the entire membership of the Board, as described in Section K below.

#### **K. Election of Officers**

1. Officers shall be elected annually after final invitations for Board membership have been extended following the Hardt Cup.
2. The date for the election meeting will be set at the discretion of the President. No election

- shall be held sooner than five (5) days after individual notice of the date, time, and purpose of the meeting is given to every Board member. Notice of the meeting shall include any additional election guidelines established by the President. Notice of the meeting shall also note that attendance at the election meeting is Constitutionally required.
3. A description of the duties of each position shall be posted on the Board's website no less than fourteen (14) days prior to the election.
  4. Officers shall be elected in the order in which they are listed in this Article, subject to the requirements for office in this Article, and the additional election guidelines established by the President. Candidates will have an opportunity to speak on their own behalf. For each officer position, all candidates, after having spoken, shall leave the room and the members will offer discussion about them. If no one seeks the position, nominations for that position will be taken from the floor. When all nominees have spoken and been discussed, the vote will be taken.
  5. All votes shall be by secret written or electronic ballot and each Board member shall have one vote per position in each round of voting for an office. The highest vote-earners shall be elected in accordance with the number of positions established by this Constitution and subject to any promulgated provision by the Executive Committee.
  6. The current President will preside over the election process.
  7. Proxy votes may be accepted pursuant to the provisions established in Article V(D).
  8. Elected officers shall take office immediately upon being elected.

#### **L. Resignation and Recall of Officers**

1. The resignation of any officer from office may be accepted by the President. If the President resigns from office, the President's resignation may be accepted by the Chairs, who shall then jointly fulfill the duties of the President until election of a new President. The Board shall be notified of any vacancy and nominations will be taken until noon of the day of the election meeting. Election will be by secret written ballot and shall require a simple majority of the combined votes of the Board members present and the Board members voting by proxy. The election meeting and voting discussed in this section may take place electronically. The Board member who receives the most votes shall take office when the election meeting has concluded. If only one Board member is nominated, no voting is required and that member shall take office as soon as the election meeting has begun.
2. A recall election shall be required upon presentation to the President of a petition for recall of any officer, or to the Chairs for the recall of the President, signed by at least fifty percent (50%) of the membership of the Board. The recall election shall be held not more than twenty-one (21) days after the presentation of the petition and shall otherwise be governed by the provisions of the Article on the election of officers. If neither the recalled officer nor any other Board member chooses to run in a recall election, the position shall be filled as if the vacancy were caused by resignation.

## **ARTICLE V: MEETINGS**

### **A. Conduct of General Board Meetings**

1. The Board conducts three types of meetings: business (general), selection, and election meetings.

- a. The Board shall conduct a business meeting in the Fall semester to discuss the obligations of all Board members, as well as the operations and expectations of Board members for the intramural competitions.
  - b. The Board shall conduct a separate selection meeting in the Fall semester to discuss the available interscholastic competitions, the process for selecting the interscholastic teams, and the expectations of members selected for an interscholastic team.
  - c. The Board shall conduct an election meeting following the final round of the Hardt Cup.
2. All meetings shall be conducted according to an agenda.
  3. The President shall preside over all meetings of the Board, with the following exceptions:
    - a. Those meetings for which the President is unavailable.
    - b. Those meetings held during a period when the position of President is vacant.
    - c. Those portions of meetings addressed to the consideration of an issue in which the President actively advocates a position.
  4. The Chairs shall preside over meetings falling within the delineated categories. Should both Chairs be unable to preside for any of those reasons, a majority of the Executive Committee shall designate a member of the Executive Committee to preside.
  5. Quorum at all General Board Meetings shall be a simple majority of all Board members.

#### **B. Executive Committee Meetings**

The Executive Committee shall meet from time to time to carry out the business of the Board and discuss proposals for general Board meetings. The President shall preside over these meetings. Meetings of the Executive Committee are closed to other Board members, except that the President may invite other members to Executive Committee meetings to discuss business relevant to them and limited to those matters discussed. Non-Executive Committee members shall not vote on proposals before the Executive Committee.

#### **C. Proposals**

1. Proposals will be accepted by the President via email or in writing up until noon the day of the meeting and added to the agenda. An agenda is required for every Board meeting but need not be posted beforehand.
2. Proposals can be accepted at the meeting at the discretion of the President, or by a motion to table that is seconded and carries a simple majority of members present. Such a proposal is automatically added to the next meeting's agenda.

#### **D. Proxy Votes**

Proxy votes will be accepted only in extenuating circumstances. A majority of the Executive Committee must approve any member's request to vote by proxy at least one day prior to any vote in order for that member's vote to be counted.

## **ARTICLE VI: INTERSCHOLASTIC TEAMS**

### **A. Selection**

1. Any interested Board member may seek to represent the Board as a participant in interscholastic moot court competitions, upon timely notice to the Interscholastic Coordinators. It remains within the final discretion of the President to determine which members of the Board shall be selected to represent the Board on its competition teams.

2. Participation is open to all Board members. In exceptional circumstances, a Duke University School of Law student who is not a member of the Board may be permitted to compete on an interscholastic team subject to approval by a majority of the Executive Committee.
3. If more members are interested in participating in a given competition than there are positions available, the President, the Chairs, and the Interscholastic Coordinators shall prescribe procedures for selecting teams from among the interested members. The President, the Chairs, and the Interscholastic Coordinators shall choose a procedure that is both fair and appropriate for ensuring that the most qualified members of the Board are selected.

**B. Faculty and Alumni Assistance**

To the extent that judging of written and/or oral skills is necessary, panels of faculty and/or alumni may be enlisted to that end.

**ARTICLE VII: AD HOC COMMITTEES**

The President may, from time to time, create certain administrative committees designed to carry out Board functions. The President shall appoint a Board member to chair each committee and designate the specific tasks, responsibilities, and deadlines that the committee must meet. Any committee not chaired by such appointees shall be chaired by the President. Membership on any ad hoc committee shall be open to any Board member, but a limit may be set on the number of members a committee may have. The method of selecting committee members shall be determined by the President.

**ARTICLE VIII: PARLIAMENTARY AUTHORITY**

The rules contained in the current edition of Robert's Rules of Order Newly Revised shall govern the Board in all cases to which they are applicable and in which they are not inconsistent with the Constitution and Bylaws and any special rules of order the Board may adopt.

**ARTICLE IX: AMENDMENT**

This Constitution and Bylaws may be amended by a two-thirds vote of the combined votes of the Board members present at a General Board Meeting and the Board members voting by proxy. Notice to amend the Constitution and Bylaws must be given to the membership at least one week prior to that meeting. Any member may propose an amendment by submitting it via email or in writing to the President, who shall include the text of the proposal in the notice of the next meeting. The Board shall not consider amendments for which prior notice has not been given.

Adopted as amended this 19th day of April, 2019, by a two-thirds vote of the Duke University School of Law Moot Court Board.